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STATUS OF PREPARATION OF PUBLICATIONS, STUDIES AND DOCUMENTS FOR THE WORLD CONFERENCE

Note by the Secretariat

Addendum

Interim report on updated study by Mr. Philip Alston

1. In paragraph 15 (a) of its resolution 43/115 of 8 December 1988, the General Assembly requested the Secretary-General "to consider entrusting, within existing resources, an independent expert with the task of preparing a study on possible long-term approaches to the supervision of new instruments on human rights, taking into account the conclusions and recommendations of the meeting of persons chairing the treaty bodies, the deliberations of the Commission on Human Rights and other relevant materials, to be submitted to the General Assembly at its forty-fourth session".

2. Pursuant to that resolution, the Commission on Human Rights adopted resolution 1989/47, paragraph 5 of which requested the Secretary-General "to entrust an independent expert with the task of preparing a study, within existing resources, on possible long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations human rights instruments taking into account the conclusions and recommendations of the meeting of persons chairing the human rights treaty bodies", and requested that the report be submitted to the General Assembly at its forty-fourth session and the Commission on Human Rights at its forty-sixth session.

3. In accordance with the foregoing resolutions, the Secretary-General appointed Mr. Philip Alston to carry out the study in question. The study was transmitted to the General Assembly at its forty-fourth session in document A/44/668 and was subsequently made available to the Commission on Human Rights at its forty-sixth session.

4. In paragraph 2 of its resolution 47/111 of 16 December 1992, the General Assembly expressed "its satisfaction with the study by the independent expert" and, "in the light of the conclusions and recommendations contained in the report of the fourth meeting of persons chairing the human rights treaty bodies, request[ed] that the report of the independent expert be updated for submission to the fiftieth session of the Commission on Human Rights and that an interim report be presented to the General Assembly at its forty-eighth session, and be made available to the World Conference on Human Rights in June 1993". The Commission on Human Rights also expressed its satisfaction with the study and made the same request for an updated version in paragraph 6 of its resolution 1993/16 of 26 February 1993.

5. The annex to the present document contains the interim report on the updated study. It has been prepared by Mr. Philip Alston, Professor of International Law and Director of the Centre for International and Public Law at the Australian National University, currently Visiting Professor of Law at Harvard Law School and Chairman of the Committee on Economic, Social and Cultural Rights.

EFFECTIVE IMPLEMENTATION OF INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS, INCLUDING REPORTING OBLIGATIONS UNDER INTERNATIONAL INSTRUMENTS ON HUMAN RIGHTS

Note by the Secretary-General

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ANNEX

Interim report on study on enhancing the long-term effectiveness of the United Nations human rights treaty régime

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SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

1. This is an interim report on a thoroughly revised and updated version of a study originally prepared at the request of the General Assembly in 1989. Since that time many of the recommendations contained in the original report have been acted upon. Those matters are therefore not dealt with again in the present version of the study.

2. The treaty régime (along with the Universal Declaration of Human Rights) constitutes the cornerstone of international human rights endeavours (paras. 53-71). Its development is one of the great achievements of the United Nations.

3. That régime has reached a critical crossroads. Its successful future evolution demands that the magnitude and urgency of existing challenges be recognized, that the vital importance of the treaty régime as a whole be reaffirmed and that the quest for creative and effective solutions be pursued with energy and commitment. In doing so, care must be taken to ensure that the integrity of the system, and particularly its ability to safeguard human rights, are not sacrificed to illusory notions of streamlining and efficiency (paras. 7-13).

4. At the time of the Teheran Conference in 1968 not a single human rights treaty body existed. Only a quarter of a century later there are seven. Over the last decade the complexity, reach and potential significance of the treaty régime have expanded enormously. Between 1989 and 1992 alone, the number of States parties to the principal treaties increased by 27 per cent. By the year 2000 there could well be an average of 160 States parties to each of the six treaties, thus generating almost 1,000 reports per reporting cycle and up to 2,000 pages of annual committee reports containing an extensive array of materials of jurisprudential significance (paras. 23-41).

5. In at least some respects, reform of the treaty régime is closely linked to reform of the overall human rights programme. That programme has grown exponentially over the past decade through a process of cumulative incrementalism rather than planned evolution. The question arises as to whether an overview study of selected aspects of the long-term development of the Charter-based system should be undertaken, either by the Secretary-General or one or more independent experts (paras. 15-22).

6. The existing heavy demands upon the Centre for Human Rights seem certain to grow even more rapidly in the years ahead. Already the disparity between demands made and resources provided has exacerbated the situation. Of the many areas affected by

these problems, the present study focuses in particular upon four which are in urgent need of overall review: advisory services, public information, collaboration with other United Nations bodies and agencies, and the relationship between United Nations human rights bodies and their regional counterparts (paras. 15-22).

7. The treaty bodies have becoming increasingly intertwined with the overall human rights programme of the United Nations. While this phenomenon is greatly to be welcomed, there is a difficult line that must be maintained between, on the one hand, promoting the most effective degree of interaction and, on the other hand, ensuring that the distinctive characteristics of the committees' treaty supervisory functions are not inappropriately blurred or even lost (paras. 53-71).

8. For many reasons, including the possibility to pursue the complex question of the role of cultural factors in the application of human rights norms, universal participation by all countries of the six principal treaties is a goal of the utmost importance (paras. 72- 75).

9. The existing level of participation is only around 60 per cent for the Covenants and as low as 40 per cent for the Convention against Torture. Efforts to date to improve this record have been piecemeal, excessively reliant upon repeated exhortation, and lacking in depth as well as resources (paras. 76-80).

10. The United Nations should immediately adopt a three-point programme designed to achieve universality:

(a) Universal acceptance of the package of six core treaties should be identified as one of the foundation stones of the human rights programme. In addition, the six States which are parties to only one of the two International Human Rights Covenants should be urged to ratify the other as soon as possible (para. 82).

(b) The programme should target specific issues to be pursued and develop effective strategies for addressing them. For example, attention should be paid to the specific problems and concerns of the 30 States with a population of two million or less which have not ratified either Covenant. If measures could be devised to enable these States to ratify or accede the total number of parties to the Covenants could rise by some 25 per cent (paras. 83- 88).

(c) A target date for achieving universality should be set (the year 2000) and a strategy devised for achieving it. Implementation of the programme should be overseen by specialists and resources should be earmarked for related activities (paras. 89-90).

11. Reporting procedures are of central importance to the international human rights régime. Reporting should be viewed as a multi-faceted undertaking that serves a variety of objectives both domestically and internationally (paras. 91-94).

12. The role of the international treaty bodies is essentially catalytic. The primary role in the reporting process belongs to the relevant actors at the national level. Ideally the treaty bodies major function should be to monitor the domestic monitors. The treaty bodies should focus more systematically on the following issues: (a) dissemination, in local languages, of the text of the relevant instrument; (b) the modalities of preparation of the State report; (c) the submission of information to the treaty body from diverse sources in connection with the examination of State reports; and (d) national level discussion of the results of the Committee-State party dialogue (paras. 95-102).

13. The current level of overdue reports (in excess of 1,000) is chronic and entirely unacceptable. As long as it is tolerated, the credibility of the entire régime is threatened, Governments become accustomed to ignoring their obligations, and the criticisms of those who portray the reporting system as toothless or ineffectual are partly vindicated (paras. 103-111).

14. Ironically, the treaty system is able to function at present by relying upon the continuing delinquency of States parties. Once this problem is resolved, however, major reforms of the present system will be unavoidable (para. 106).

15. Rather than seeking to identify appropriate incentives and disincentives to address this issue, both the treaty bodies and the political organs have tended simply to exhort States to report. It is imperative that this problem now be addressed with determination and imagination.

16. Four steps should be considered: (a) The provision of advisory services, of a very different kind to those presently on offer, to States parties whose reports are more than two years overdue; (b) the immunity from scrutiny, currently enjoyed by non-reporting States, must be removed by scheduling the situation in those States for examination, even in the absence of a report; (c) States parties whose reports are long overdue should be listed by name in resolutions adopted by the Charter-based organs; and (d) States parties should be provided with a positive incentive to report by virtue of the availability of additional technical assistance (paras. 109-122).

17. States are currently subject to an excessive number of demands for information on human rights matters. At a certain point, additional demands might be counter-productive given the available capacity. Many of the demands are essential, but some

could be reduced or avoided. Any solution must satisfy the twin criteria of (i) minimizing the burden placed on States and (ii) maximizing the effectiveness of measures to ensure respect for human rights (paras. 123-125).

18. Requests based on treaty obligations or emanating from special procedures established by the Charter-based organs should be distinguished from other demands and the principal focus of endeavours to reduce the burden should concentrate on requests emanating from sources other than these two (paras. 126-135).

19. In particular, measures should be taken to reduce the paper warfare against States and non-governmental organizations that currently characterizes the process of preparing much of the documentation sought by the Charter-based organs from the secretariat (para. 134).

20. The consolidation of reporting guidelines with respect to a country profile, which has recently been achieved, is a valuable initiative but serves to address only a part of the much larger problem of overlapping reporting requirements (para. 139).

21. As a result of extensive overlapping in the competences of different treaty bodies, States may be required to report on virtually the same issue to five or more different bodies. In an effort to reduce such duplication each State party should be encouraged to identify for its own purposes the instances in which cross-referencing can be used effectively and appropriately in preparing its reports. If necessary, and if resources are available, interested States should be assisted in that task through the Advisory Services Programme. Each of the treaty bodies might also consider providing some guidance to States parties in this respect (paras. 152).

22. States might also consider designating a specific administrative unit at the national level to coordinate the preparation of all reports to treaty bodies (para. 152).

23. Given the need to better understand existing overlap between ILO and United Nations treaty standards the International Labour Office should be asked to consider updating and expanding for informational purposes the analysis it prepared in 1969, which compares the provisions of relevant ILO Conventions with the standards contained in the United Nations human rights treaties. This could be linked to a more concerted effort by the treaty bodies to take full account of instances in which a State party has already reported to the ILO on the same subject-matter (paras. 142-143 and 155).

24. The meeting of chairpersons should be specifically mandated to consider, on the basis of policy options submitted by the secretariat, how the various committees might reduce overlapping

or duplication in respect to specific issues such as the rights of the child (para.146-148).

25. The overlapping competences of different treaty bodies can result in a situation in which a State may be required to report on virtually the same issue to several different treaty bodies. In an effort to reduce such duplication each State party should be encouraged to identify for its own purposes the instances in which cross-referencing can effectively and appropriately be used in preparing its reports. Other measures might include designating a specific administrative unit to coordinate the preparation of all such reports. The treaty bodies and the ILO should also contibute to the development of more effective approaches (paras. 149-155).

26. Given the increasing number of specific themes, such as the rights of women, the disabled, the ageing etc., to which all treaty bodies are being asked to pay particular attention, it should be considered whether flexible modalities can be found for allocating primary responsibility for addressing a given dimension of an issue to one body or another (paras. 156-163).

27. Long-term options for reducing reporting burdens should be considered. They include: (i) reducing the number of treaty bodies and hence the number of reports required (paras. 164-166); (ii) encouraging States to produce a single "global" report to be submitted to all relevant treaty bodies (paras. 167-173); and (iii) replacing the requirement of comprehensive periodic reports with specifically-tailored reports (paras. 174-182).

28. Reform of the financing arrangements relating to the treaty bodies is one of the major achievements of recent years. States parties to the two treaties concerned should be urged to ratify the amendments as soon as possible (paras. 183-184).

29. The meeting time available to the treaty bodies as a whole has been expanding steadily, although still insufficiently, and is likely to reach 34 weeks with six weeks of working groups in 1993. That figure may need to be doubled when the system is working effectively (paras. 185-193).

30. Members of all committees should be provided with honoraria, rather than only three out of six as at present (paras. 194-196).

31. The existing levels of secretariat servicing provided to the treaty bodies is entirely inadequate. Computerization needs to be expedited; a documentation unit established; an inventory of committee needs should be drawn up; CEDAW should be serviced by the Centre for Human Rights; specialist expertise must be developed within the secretariat, in the context of a major restructuring of existing servicing arrangements; and greatly increased resources need to be made available (paras. 197-206).

32. The various intergovernmental agencies need to be involved in the work of the treaty bodies, but on a much more discerning basis than current approaches might imply. Overall, effective and targeted coordination needs to be put on the inter-agency agenda in a far more substantive way than hitherto (paras. 209-217).

33. Relations between the treaty bodies and non-governmental organizations are badly in need of review. A non-governmental liaison office needs to be established within the Centre for Human Rights (paras. 218-237).

34. Every effort should be made to maximize normative consistency. As standards proliferate and new treaty bodies are created the risks of inconsistency will continue to grow. Confusion and diminished credibility could result. In the longer term the implications of creating additional treaty bodies need to be very carefully weighed. In the short term, the desirability of seeking normative consistency should be reiterated and every effort made to ensure that any potential inconsistency is brought to the attention of the body concerned by the secretariat (paras. 238-241).

35. The Secretary-General might consider revising or supplementing United Nations Action in the Field of Human Rights so as to provide a more accessible record of the jurisprudence emerging under the various bodies. The development of more specialized expertise within the secretariat should also be considered (paras. 242-243).

36. At present the United Nations and regional human rights treaty bodies pay very little attention to one another's jurisprudence. In order to improve the chances of a coherent overall international human rights regime evolving, and to reduce the likelihood of widely diverging and even directly incompatible approaches and interpretations, efforts need to be made to encourage cross-fertilization. The treaty bodies should be kept informed of developments elsewhere, interaction between the universal and regional systems should become less superficial and more substantive, the respective treaty bodies or their representatives should get together occasionally, and data bases should be developed to enable the jurisprudence of each body to be available to the others (paras.245-254).

Request for comments to be reflected in the final study

37. The present report is an interim one, as requested by the General Assembly. The final version of the report will be submitted to the Commission on Human Rights at its fiftieth session, in 1994. It should be noted that that version will deal

with several other issues not included here, including in particular, public information and advisory services.

38. That version will also take full account of any comments received by the independent expert in the intervening period. Any such comments are warmly invited.

I. INTRODUCTION

A. Mandate

1. The focus of the present updated and significantly revised study is on long-term approaches to enhancing the effective operation of existing and prospective bodies established under United Nations human rights instruments. The independent expert was requested to take account, in the preparation of the study, of the conclusions and recommendations contained in the report of the fourth meeting of persons chairing the human rights treaty bodies (A/47/628, Annex).

2. In addition account has been taken of recent discussions held under relevant agenda items in the General Assembly, the Economic and Social Council, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Extensive reference has also been made to the reports of the various United Nations human rights treaty bodies and to a range of other relevant literature.

3. In addition, in view of the General Assembly's request that this interim version of the study be made available to the World Conference on Human Rights, a particular effort has been made to bear in mind the provisional agenda for the Conference (General Assembly resolution 47/122, Annex) which, inter alia, calls for it to make recommendations for:

(a) Strengthening international cooperation in the field of human rights in conformity with the Charter of the United Nations and with international human rights instruments;

(b) Ensuring the universality, objectivity and non-selectivity of the consideration of human rights issues;

(c) Enhancing the effectiveness of United Nations activities and mechanisms;

(d) Securing the necessary financial and other resources for United Nations activities in the area of human rights.

B. Approach adopted and issues examined

4. It may reasonably be assumed that the present study has been entrusted to an independent expert in order to facilitate the task of addressing some of the more difficult and far-reaching issues raised by the problems currently facing the human rights treaty bodies as well as some of those which may reasonably be expected to arise over the next decade or so. Moreover, the

quest for enhanced effectiveness inevitably requires consideration of issues on which no consensus may immediately be discernible. An expert study is thus a useful means by which to shed further light on issues that require continuing reflection and debate. It may also be an appropriate mechanism for dealing with issues relating to the functioning of a diverse and somewhat disparate range of bodies that are not subject to the overall authority of any one body and that do not fit easily into any particular organizational structure or hierarchy.

5. The present revised study deals with a variety of issues raised in discussions within the relevant United Nations organs and in the deliberations of the treaty bodies themselves. It does not, however, purport to be comprehensive or to deal with each of the issues exhaustively.

6. In preparing the revised version of this study, the author has endeavoured to keep two rather different objectives in mind. The first is to place the issues in their wider context and to stimulate reflection on approaches that, in the short term, may seem impracticable or even unnecessary but, in the long term, may be unavoidable. Given the centrality of the treaty bodies within the global human rights régime and the speed at which the environment in which they are operating is changing, it is essential to undertake such long-term analysis at some point and it is clear that the General Assembly and the Commission on Human Rights are the bodies best situated to do so. Thus, while some of the issues raised here may not be of immediate and pressing concern, they must nevertheless be factored into any overall analysis today if the human rights régime is to be made both more effective and more efficient tomorrow.

7. The second objective of the revised study is to present an overview and analysis of a number of issues that are of very immediate concern and have a direct bearing on the effective functioning of the existing treaty bodies. An indication of those issues emerges very clearly from recent resolutions adopted by the General Assembly and the Commission on Human Rights as well as from the problems identified by the 1992 meeting of persons chairing the human rights treaty bodies (see A/47/628). They include the following:

(a) The importance of moving closer to universal ratification of, or accession to, the principal international human rights treaties;

(b) The problem of responding to an increasing number of reservations which appear to be incompatible with the object and purpose of the treaty in question;

(c) The growing burden imposed on many States by the expansion and overlapping of reporting obligations under different instruments;

(d) Excessive delays by some States parties in the submission of their reports and the difficulties encountered by the treaty bodies in seeking to induce such States to submit their overdue reports;

(e) The problem of inadequate reports submitted by some States parties;

(f) Insufficient resources to enable the treaty bodies to function effectively;

(g) The inability of the secretariat, for reasons of inadequate staffing levels, to provide the treaty bodies with the administrative and technical support they require;

(h) The need to continue to explore the use of more innovative procedures if the various treaty bodies are to operate both effectively and efficiently;

(i) The need to make more effective use of public information activities;

(j) Concern that the creation of additional treaty bodies will exacerbate existing problems; and

(k) The need to ensure that recent amendments to two of the teaties, designed to ensure regular budget funding of their operations, are endorsed by States parties and enter into force as soon as possible.

8. It has been suggested that all of this adds up to a crisis situation and that there is an "impending deadlock affecting international procedures for monitoring compliance with United Nations human rights conventions" (A/C.3/43/5, p. 6). Other commentators have conceded that United Nations "bodies dealing with human rights ... need to be reorganized on the basis of ... new thinking". 1/ Similarly, a member of the Human Rights Committee warned in 1989 that "there comes a critical moment in the life of successful international institutions, a moment at which they can go forward or begin to disintegrate. And among all the generous words [praising the achievements of the Human Rights Committee] I see dangers for the International Covenant on Civil and Political Rights". 2/

9. While some observers have been more critical than others, there appears to be a consistent recognition of the need for sustained reform. It is therefore appropriate, by way of background, to note some of the diagnoses that have recently been made. One study of the reporting procedure under the Covenant on Civil and Political Rights, prepared by a group of experts with

extensive experience as members of the Human Rights Committee, observed that "[a]n increasing number of States are finding their reporting duties to have become too onerous, and the whole procedure in danger of becoming a ritualistic routine". 3/ The report concluded that, "[i]f new approaches are not found, support might decline". 4/ The same report then identifies a range of problems which are also reflected in other assessments. Thus, for example, a recently published, comprehensive review of the Committee's work noted the following problems:

> "inadequate guidelines for the preparation of reports; inadequate and incomplete reports which do not deal with the realities...; the absence of procedures to determine the adequacy of the reports submitted; delays in the submission of State reports; the absence of agreement on procedures for requesting [additional reports]; the absence of any formal role for specialized agencies or non-governmental organizations in the reporting procedure; the duplication of questions and the pressures placed on State representatives; the absence of any clear 'Committee view' of the human rights performance in a particular State ...; the disagreement within the [Human Rights Committee] ... which has resulted in no country specific reports ...; and the limited roles played by ECOSOC, and the General Assembly." 5/

10. Although this list is long, an observer who follows the work of the Human Rights Committee closely could not help but be struck by the extent to which the Committee has moved to address many of the issues within the past couple of years. 6/ The same is true, although to varying degrees, of the preparedness of each of the other treaty bodies to innovate in order to respond to perceived problems and to enhance effective functioning.

11. Nevertheless, the innovations that have been implemented so far have been insufficient to satisfy many observers. The General Assembly and the Comission on Human Rights have continued to call for improvements within the system and other observers have continued to make even more critical appraisals of the treaty régime as a whole. One recent assessment, for example, suggests that States parties to the various treaties have contributed significantly to the system's ineffectiveness:

> "In large numbers they fail to produce timely reports, do not engage in reform activities in the course of producing reports, author inadequate reports, send uninformed representatives to the examination of reports by the treaty bodies, fail to respond to questions during the examinations, discourage greater media attention of the examination of reports, fail to disseminate reports and the results of the examinations within the State, elect non-independent/government employees to treaty body membership, fail to object to reservation, and fail to challenge

reservations by additional means." 7/

12. Whatever terms may be used to characterize the present situation, however, it is generally agreed that the United Nations human rights treaty monitoring system has reached a critical crossroads. Its successful future evolution demands that the magnitude and urgency of existing challenges be recognized, that the vital importance of the treaty régime as a whole be reaffirmed and that the quest for creative and effective solutions be pursued with energy and commitment. By the same token, that quest must not be embarked upon without acknowledging the very considerable achievements to date and the importance of proceeding with sensitivity and sophistication in order to ensure that the fundamental integrity of the system, and particularly its ability to safeguard human rights, are not sacrificed to illusory notions of streamlining and efficiency.

13. The paradox is, that while far-reaching and even radical reforms may be necessary, they can best, and perhaps only, be achieved through measures that are both carefully conceived and formulated and painstakingly implemented. In other words, a time of crisis or challenge should also be seen as a time of opportunity for constructive reform and improvement.

14. Before proceeding to examine the overall context in which these issues need to be considered, it is appropriate and important to re-state the fact that the attention devoted over the past four years (since the first version of the present study was prepared) to the need to promote the more effective functioning of the treaty supervisory system has given rise to some important achievements. Leaving aside for the moment the many reforms introduced by each of the treaty bodies, perhaps the most important general initiative has been the major reforms initiated by the General Assembly, and acted upon by the relevant meetings of States parties, in the financing arrangements relating to the Committee for the Elimination of Racial Discrimination and the Committee against Torture. While this matter has not yet been definitively resolved, 8/ the steps that have been taken are of fundamental importance in affirming that the financing of the activities of supervisory bodies in the human rights field cannot be left dependent upon the preparedness to pay of those States parties which might well have an incentive to paralyse the procedures by not paying. 9/

C. Situating treaty body reform within a broader context

15. The United Nations stands poised on the threshold of a new era. It is an era that has been ushered in by the end of the Cold War, by the reinvigorated movement towards democracy in many countries, and by a renewed sense of the importance of the Charter principle of respect for human rights and of its far-

reaching implications for both the domestic and international orders. It is also an era in which the magnitude and severity of a range of gross and often recurrent abuses of human rights has removed from the Organization and its Member States any option they might once have had to remain unresponsive to those violations, whatever the reasons proffered. Within the Organization's human rights forums the removal of many of the ideological barriers that had artificially prevented progress on so many issues, combined with the emergence of a realization that institutional renewal and reform are not only possible but indispensable, have created opportunities as well as challenges.

16. While the immediate focus of the present study is confined to the treaty régime, the analysis that follows is predicated upon the assumption that the treaty régime has become an integral part of the overall human rights program within the United Nations system. That assumption inevitably raises the question of whether a comparable overview study of the long-term development of the Charter-based system for the promotion and protection of human rights is desirable and perhaps even necessary.

17. Over the past decade the overall United Nations human rights program has grown at an exponential rate. This is the result of various factors that have combined to place far greater demands on the United Nations than seemed likely, or even possible, only a decade ago. Those factors include: the rapidity of changes in the international system, a growing recognition of the interdependence of human rights with peace, security, development and other issues, the ever-increasing capacity of new communications technologies to bring instant news of developments throughout the world at virtually the same time as they are occurring, the growth in expectations on the part of all concerned (governments, non-governmental organizations, and the victims of human rights violations), and the preparedness of governments to authorize activities that had previously been blocked for ideological or other reasons.

18. But the resulting increased workload has not been matched by the availability of adequate personnel or financial resources within the secretariat and particularly within the Centre for Human Rights. The resulting gross disparity between the demands being made and resources being made available has meant, among other things, that time and opportunities for reflection on the ways in which the system could best be expanded, consolidated and reformed have simply not been available. While the need for reflection on these matters has recently been raised by the Commission on Human Rights in relation to special procedures (resolution 1993/58), such reflection would seem to be even more essential in relation to many of the activities that are of vital concern to the treaty bodies. This conclusion emerges clearly from the report of the fourth chairpersons meeting, which concluded that "many of the urgent needs experienced by the

treaty bodies cannot be satisfactorily dealt with in the absence of more far-reaching financial, personnel and administrative reforms" (A/47/628, para.49).

19. By the same token, there is also a need for some sustained management and policy analysis of the results in specific areas of activities which have been subjected to a process of virtually unrestrained incremental growth. The process has, in some ways, resembled that of placing ever more building blocks on top of one another in a vertical structure, until eventually the whole structure topples over because nothing has been done to ensure a solid foundation or to reinforce it as it grows. In the context of the present study, several such areas stand out. They include: the provision of advisory services; the arrangements for disseminating public information; the possibilities of constructive collaboration with other United Nations bodies and agencies; and the relationship between United Nations human rights bodies and their regional counterparts.

20. Although each of these issues is dealt with in some detail later in this study, particularly in so far as they concern the treaty bodies, it is appropriate to flag them at this point. Thus, although the advisory services program has developed under very significant financial and other limitations, requests that such services be made available for one purpose or another have proliferated to the point where they have become an almost automatic component of any resolution dealing with a host of diverse issues. The same situation would seem to apply in relation to public information.

21. In terms of collaboration between the United Nations human rights organs and relevant United Nations agencies, such as the ILO, UNESCO, UNDP or the World Bank, the potential has grown in recent years. At the same time, however, requests have proliferated to such an extent, and are so lacking in coordination or the setting of priorities that it is perhaps not surprising that so little response has generally been elicited. In relation to the regional human rights bodies, the unremitting expansion of both universal and regional régimes with minimal consultation between them risks leading to a situation in which even very modest forms of coordination will come to appear too complicated to contemplate. In at least some of these areas it is possible that a continuation of the existing approach might result either in the paralysis of the relevant activity or in the adoption of resolutions and decisions in response to which very little will, or can, be done.

22. It would thus seem desirable for steps to be taken to re-evaluate existing approaches and for more coherent strategies to be developed in each area. 10/ It seems unlikely, however, that either the Commission on Human Rights or any of the principal organs will be well placed to undertake such a re-

evaluation in the absence of detailed technical analyses of the policy needs and options that exist in each domain. Consideration should thus be given to the commissioning of such analyses, either by the Secretary-General or by one or more independent experts.

II. OVERVIEW OF THE RAPIDLY CHANGING ENVIRONMENT WITHIN WHICH THE TREATY BODIES ARE FUNCTIONING

23. One of the enduring paradoxes of the United Nations human rights treaty system is that while each treaty régime must be considered on its own merits and in the light of its own specific norms and procedures, for some purposes the various régimes cannot realistically be viewed in isolation either from one another or from the broader human rights programme of which they are but a part. Indeed, one of the problems with some of the analyses that have been undertaken in the past is a tendency to compartmentalize each of the treaty bodies as though they existed solely within entirely self-contained régimes. Thus, in order to identify potentially effective, acceptable and enduring solutions to some of the challenges currently facing the treaty system, it is necessary to consider (briefly) the evolution of that system over time and to situate it in relation to the development of the human rights programme as a whole.

A. The evolution of the human rights treaty system over time

24. By most standards, the existing human rights treaty system is a remarkably recent creation. Less than a quarter of a century ago, at the time of the 1968 World Conference on Human Rights held in Teheran, not a single treaty body was functioning. Since that time the system has mushroomed and its rapid growth has brought with it a range of problems that could perhaps have been foreseen without great difficulty. The process of evolution and growth is perhaps best illustrated by comparing the broad contours of the situation in 1993 with that which prevailed in 1970 and 1980 respectively.

1. The treaty system in 1970

25. In 1970, less than two decades ago, there was only one United Nations human rights treaty body in existence, the Committee on the Elimination of Racial Discrimination. It met for the first time in January 1970. The Committee's first annual report to the General Assembly was less than 40 pages in length and related largely to procedural matters. 11/ The Convention under which the Committee had been established, the International Convention on the Elimination of All Forms of Racial Discrimination, adopted

by the General Assembly in resolution 2106 A (XX) of 21 December 1965, had attracted only 41 States parties and the optional petition system that it established would not receive sufficient declarations to enter into force for another 13 years (on 3 December 1982). There were, at the time, no other treaty-based communications procedures in the human rights field. The International Covenants on Human Rights had been adopted by the General Assembly in its resolution 2200 A (XXI) of 16 December 1966 but would not enter into force until a decade later.

2. The treaty system in 1980 12/

26. Only a decade later, four different treaty bodies were in existence. They were, in addition to the Committee on the Elimination of Racial Discrimination: the Group of Three established under the Convention on the Suppression and Punishment of the Crime of Apartheid (resolution 3068 (XXVIII), annex); the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights; and the Human Rights Committee. The Committee on the Elimination of Racial Discrimination produced a 135 page report 13/ relating to a Convention that by then had 104 States parties. The Group of Three was concerned with a Convention that had 49 States parties but only five reports were before it at its 1979 session. It submitted a six-page report to the Commission on Human Rights (E/CN.4/1328). The Sessional Working Group, which was assisting the Economic and Social Council to monitor a Covenant that then had 56 States parties, met for the first time in 1979 and presented the Council with a six-page report (E/1979/64).

27. In 1980, the Human Rights Committee was barely four years old and was monitoring a Covenant that then had 58 States parties, almost a quarter of which had only ratified the Covenant in the preceding two years. Only 21 of them had ratified the Optional Protocol and 10 had made the declaration under article 41 (concerning inter-State communications). The latter procedure had only just entered into force (in March 1979), and the Committee had only registered a total of 53 communications (relating to 9 States) under the Optional Protocol. More than four fifths (a total of 43) of those communications related to only 2 States. By the end of 1979 the Committee had adopted only one set of final views under article 5 (4) of the Optional Protocol. The adoption of General Comments (under article 40 (4)), an activity which is now regular and of major importance, had not yet begun and there was not even any agreement as to the method that might be followed in doing so. The report of the Committee for 1979 was 130 pages in length. 14/

28. Thus by 1979 the General Assembly was receiving annual reports directly from only two treaty bodies (the two

Committees), although it was also taking note in its resolutions of the work of the other two bodies (the Group of Three and the Sessional Working Group). It thus had a total of 276 pages of reports to consider. Those reports contained no General Comments (adopted by the Human Rights Committee), no decisions or general recommendations on matters other than procedural ones (adopted by the Committee on the Elimination of Racial Discrimination), and only one set of final views in response to communications by individuals. There were a total of 267 States parties to the 4 treaties, making an average of 67 per instrument.

3. The treaty system in 1993

29. By 1993 the human rights treaty system had undergone a major transformation in comparison with the situation in 1980. Briefly stated, there are now seven treaty bodies (with the addition, since 1980, of the Committee on the Elimination of Discrimination against Women (1982), the Committee against Torture (1988), and the Committee on the Rights of the Child (1991), as well as the replacement of the Sessional Working Group by the Committee on Economic, Social and Cultural Rights (1987) . There are (at 1 January 1993) a total of 678 States parties to the 6 instruments (at an average of 113 per treaty). 15/ The Optional Protocol has been ratified by three times the number of States that had accepted it at the beginning of the previous decade. In so far as delegates to the General Assembly or the Commission endeavoured to read the annual reports of all 6 treaty bodies they were confronted (on the basis of 1992 reports) with a total of 939 pages, a 50 per cent increase from three years earlier. 16/

30. Thus, in quantitative terms, the General Assembly at its forty-seventh session was, by comparison with its work-load only a little over a decade earlier, expected to consider the reports of 50 per cent more treaty bodies (from 4 to 6), to deal with instruments that have more than two and one-half times the number of States parties (from 267 to 678) and to read three and one-half times the amount of documentation (from 276 to 939 pages). The comparison between the figures at the beginning of 1993 and those used in the first version of this study only three years earlier are equally revealing in showing the rate of growth of the treaty régime. The number of States parties increased by 27 per cent (from 533 to 678) and the average number of parties per treaty went from 90 to 113. Thus, in overall terms, the potential workload of each committee increased by more than 25 per cent within a three year period.

31. It is in the qualitative rather than the quantitative realm, however, that the greatest change has taken place. By comparison with a little over a decade ago the annual reports are generally less procedurally oriented and contain far more information of

substantive relevance beyond the confines of the treaty régime itself. In 1980 none of the treaty bodies had adopted any general comments. By January 1993, the Human Rights Committee had adopted 21 such comments (two of which replaced earlier ones), the Economic, Social and Cultural Rights Committee had adopted four and foreshadowed others, the Committee against Torture is empowered by the relevant Convention to adopt general comments, the Committee on the Elimination of Discrimination against Women had adopted 20 general recommendations and 3 suggestions, and the Committee on the Elimination of Racial Discrimination had adopted 10 general recommendations and a significant number of decisions.

32. It is not so much the overall number of these types of statements nor their length that are most significant. Their true relevance lies in the importance that the respective committees attach to them and the extent to which they assume that States parties and other interested observers will take account of their content and implications in interpreting or applying the relevant treaty provisions. They are therefore of cumulative relevance, in the sense that a full appreciation of the work of a particular Committee in 1993 might require an understanding of a range of general comments it has adopted in previous years but which are not reprinted in its current annual report. 17/

33. In addition to general comments and other similar statements, all of the committees now adopt substantive, evaluative "general observations" at the conclusion of their consideration of individual State party reports. As the transition has been made from the consideration of initial reports to that of periodic reports and as the Committees have become more specific and more sophisticated in their requests for detailed information, these concluding observations have also become more detailed and precise and more significant in jurisprudential terms. For that reason, their relevance is increasingly perceived not to be restricted solely to the State party concerned. They too must thus be taken into account by observers wishing to obtain a full understanding of the Committees' approach in matters of both normative (substantive) and procedural import.

34. Finally, the situation in 1993 differs dramatically from that of 1980 in terms firstly of the sheer volume of individual communications being received by the Human Rights Committee in particular and secondly of the jurisprudential significance and complexity of many of the relevant decisions. In its 1988 report, the Committee noted that there had been "an exponential growth in the number of communications submitted to it" and observed that while it had had 33 pending cases before it at the end of 1986, the figures for the following two years were 49 and 116 respectively. 18/ By July 1992 the Committee had 153 cases pending. 19/

35. Moreover, in its early years, many of the Committee's decisions on the merits dealt with cases of physical and psychological abuse where the facts rather than the law were principally in dispute. Procedural rather than substantive matters were also often the major focus. In recent years, the range of issues dealt with has increased considerably and the jurisprudential interpretations adopted by the Committee have sometimes had a significance ranging far beyond the immediate case in hand. In the Committee's 1992 report, for example, important decisions in response to communications dealt with matters such as the right to take part in the conduct of public affairs, the right to a fair trial, the double jeopardy rule, the right of an accused person to communicate with counsel, procedural safeguards in relation to extradition, what constitutes trial within a "reasonable time", the principle of non-discrimination in relation to social security benefits, and reasonable conditions of detention. 20/ The approach adopted in each of these decisions is therefore of direct relevance to specific matters being dealt with in other United Nations human rights forums.

4. The treaty system in the year 2000: a glimpse into the future

36. A few bare facts must suffice to provide an indication of the likely shape of the treaty system seven years from now. In the first place, current proposals for the creation of at least one more treaty body (dealing with the rights of migrant workers) might have reached fruition by that time, bringing the total to eight. Moreover, it seems very likely that these treaties will, by the year 2000, have been supplemented by a significant number of optional protocols, some but not all of which will involve additional procedural as well as substantive obligations for States parties (the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1993/28) being a prime example in this regard).

37. Secondly, the number of States parties is likely to have continued growing at a steady pace and the total extent of reporting obligations will have grown accordingly as well as being further extended by the entry into force of the new treaty on migrant workers and some of the optional protocols. If we assume that each of the six principal treaties will have 160 States parties by the year 2000, there will be almost 1,000 separate reports required. The ramifications for all concerned of such a workload are potentially immense. If existing procedures are retained, and if reports are submitted on schedule, each of the treaty bodies will need a radical increase in the amount of meeting time available to them (this issue is explored in more detail below).

38. In addition, all of the treaty bodies have now indicated that they are prepared to set special procedures in train where it seems essential to respond to urgent situations pertaining to the rights recognized in the relevant treaty. It can be assumed that the use of these procedures will have been considerably developed by the year 2000 and that a significant number of States parties will, each year, be requested to furnish information which is additional to that contained in their scheduled periodic reports under each of the treaties. In total then, the overall amount of information required to be processed will have increased very significantly and the extent of secretariat servicing needed will have expanded accordingly.

39. The number of communications being processed will probably have risen dramatically as the Human Rights Committee's work becomes even better known, as the procedure of the Committee on the Elimination of Racial Discrimination outlined in article 14 of the relevant Convention moves well beyond its current rather embryonic stage and as the Committee against Torture begins to attract a sizeable number of communications.

40. In addition, proposed optional protocols permitting communications to be lodged might by that time have been adopted in connection with both the Convention on the Elimination of All Forms of Discrimination against Women and the Covenant on Economic, Social and Cultural Rights. There is also good reason to expect that the rate of acceptance by States of the arrangements relating to communications will accelerate in the years ahead, even when compared to the impressive rate achieved in recent years. As communications procedures become more widespread, and as the issues raised become more complex and more far-reaching in their implications, the pressure will increase further for staff to process the applications and to prepare initial legal analyses of the issues raised.

41. Finally, it is very clear that the various treaty bodies will be making extensive use of the technique of adopting general comments and similar statements. This in turn will give rise to an even greater need for coordination and consultation and for an increasingly voluminous jurisprudence under each treaty to be taken into account. If all of these trends are confirmed, it seems reasonable to predict that the total volume of the 8 annual reports could easily double its 1992 level, to reach 2,000 pages by the year 2000.

B. Implications for the treaty system of the general expansion of multilateral human rights activities

42. The past two decades have witnessed a major expansion not only in the human rights treaty system but also in the United Nations human rights programme as a whole. A similar expansion

has also occurred within the framework of other multilateral groupings. While these developments are clearly to be welcomed, it is also necessary to acknowledge that they have helped to render the challenges facing the treaty bodies considerably more complex than they might otherwise have been. In the present context it must suffice to note four areas in which particular expansion has taken place.

1. The increasing number, and degree of detail, of standards

43. The first area is human rights standard-setting, which is generally recognized as one of the most impressive achievements of the United Nations human rights programme. This activity has yielded not only the treaties on the basis of which the various treaty supervisory bodies have been established but also a wide range of other international standards. Thus for example the 1988 edition of the United Nations Compilation of International Instruments 21/ contains the texts of 65 different instruments adopted between 1948 and 1986 (as well as 2 others adopted in 1926 and 1930, respectively). While the average rate of adoption of new standards has remained relatively constant over this period, the result of 40 years of consistent activity is an extensive accumulation of standards, which are, in most cases, of direct relevance to the work of one or more of the treaty bodies. Although the treaty bodies are not called upon to apply, and much less to interpret, any standards other than those contained in their respective constitutive instruments, a familiarity on the part of members of the Committees with all relevant international standards is clearly desirable in order to avoid potential inconsistency and confusion. As the total number of instruments continues to grow, the difficulty of mastering the relevant body of international legal provisions also increases.

2. The expansion of the activities of the Charter-based organs

44. The second area of expansion of direct relevance to the work of the treaty bodies concerns the range of activities undertaken by the principal Charter-based organs and in particular the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Over the past decade, there has been a major expansion in the work of these bodies, particularly in the context of thematic procedures, - country-specific procedures, advisory service activities and studies and standard-setting activities of general relevance. In monitoring States parties' compliance with their treaty obligations it is clearly desirable that each Committee be adequately informed of relevant developments in these other contexts. This entails, however, the continuing review of an

increasingly voluminous documentation. In addition, there is a growing tendency for the Commission, the Sub-Commission and the Commission on the Status of Women, as well as various other bodies (in addition, of course, to the General Assembly and the Economic and Social Council), to address the activities of the treaty bodies directly in their respective resolutions. Whatever the formal status of such resolutions vis-à-vis the individual treaty bodies, the more or less explicit policy suggestions they contain clearly need to be taken into account.

3. The increasing range of international policies of direct relevance

45. The third area of expansion concerns the broad range of United Nations activities about which the treaty bodies should be reasonably well informed if they are to be fully effective in their own work. Obvious examples include the desirability of an awareness on the part of the members of the treaty bodies of the current position in relation to the drafting of new standards in the field of human rights. Moreover, not all such activities are taking place within the specialist human rights organs. Thus, certain aspects of the work of the Commission on Social Development, the Commission on the Status of Women and the Commission on Crime Prevention and Criminal Justice may be of direct relevance to the treaty bodies.

46. The less obvious examples include the relevance to the work of the Committee on the Elimination of Discrimination against Women, for instance, of the activities of a vast array of United Nations bodies dealing with women's issues. Thus, a "cross-organizational programme analysis of the activities of the United Nations system for the advancement of women" prepared by the Secretary-General identified over 500 "legislative instruments" (resolutions and decisions, etc.) adopted primarily during the period 1975 to 1988 (E/1989/19, para. 17). While Committee members clearly do not require a detailed knowledge of all of these instruments (or of the programmes to which they have given rise) in order to carry out the tasks entrusted to them by the Convention, a certain level of awareness is obviously desirable.

47. In addition, reference can also be made to the relevance of the work of the committees of experts of the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) that are responsible for monitoring States parties' compliance with a range of relevant human rights-related treaty obligations. The work of these bodies is of direct importance for at least three reasons. In the first place, the standards that are set within these organisations are often very directly related to the standards being dealt with by the different treaty bodies. This is true, for example, in relation to a wide range of anti-discrimination

provisions, to the rights of women, indigenous peoples and various vulnerable groups, as well as in relation to specific rights such as freedom of association, the right to join trade unions and the right to education.

48. Secondly, the jurisprudence generated by these supervisory committees is of potentially major relevance to the work of the treaty bodies, in much the same way as is the jurisprudence generated by the principal regional bodies (see the discussion below). Thirdly, it is likely that at least some of the issues considered in relation to a given State party's report by a United Nations treaty body will already have been examined within the context of the work of either the ILO or the UNESCO supervisory committee's work. While previous consideration of the issue in those contexts does not in any way deprive the relevant United Nations treaty body of either its jurisdiction or its responsibility to examine the issue, it is desirable that the latter be aware of, and indeed well-informed about, the latter.

4. Developments at the regional level

49. The final area of expansion concerns human rights activities being undertaken in other multilateral contexts, and particularly by the principal regional organizations. The General Assembly has consistently emphasized the importance that it attaches to regional human rights initiatives as a complement to United Nations activities, most recently in its resolution 47/125. Similarly, the Commission on Human Rights has regularly received information from, and heard interventions by, representatives of the Council of Europe, the Organization of African Unity (OAU) and the Organization of American States (OAS) and by representatives of their respective human rights organs.

50. Over the past decade, in particular, both the Inter-American Commission and Court of Human Rights and the European Commission and Court of Human Rights have built up an impressive human rights jurisprudence in interpreting instruments that contain many provisions similar to those contained in United Nations human rights treaties. The gradual expansion of the activities of the African Commission on Human and Peoples' Rights will, in time, contribute further to building up this body of jurisprudence. In addition, other specialist bodies are likely to be created at the regional level. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment is an example of such a body that has already been set up. Others are certain to follow, such as the African Committee of Experts on the Rights and Welfare of the Child whose creation is already envisaged under the African Charter on the Rights and Welfare of the Child.

51. While it must be emphasized that it would be entirely

inappropriate to assume that the approach adopted by a regional organ on the basis of a regional treaty could simply be transposed automatically to the international level (or vice versa), the growing maturity of the three separate regional mechanisms, the organs of which often operate in parallel to their United Nations counterparts, raises important issues which have yet to be adequately addressed. Some of these matters are addressed in a later part of this study in connection with the consideration of initiatives that might be desirable in order to promote normative consistency.

52. In addition, reference must be made in this context to the activities of other regional bodies which may well be of direct relevance to the work of the United Nations human rights treaty bodies. In particular, the range of activities now being conducted under the auspices of the Conference on Security and Co-operation in Europe has grown dramatically in recent years.

C. The treaty system as the cornerstone of the United Nations human rights programme

53. As noted earlier, it is true in a strict legal sense that the output of each treaty body is of direct applicability only in connection with the performance of the specific tasks accorded to it in the relevant treaty. Thus, it can be argued that the approaches that it adopts and the jurisprudence that emerges from its various activities are of direct relevance only to those States which have ratified the treaty and then only in situations in which the treaty régime is clearly applicable. However, such a narrow, legalistic characterization of the role of the treaty bodies is artificial at best, and misleading at worst. Taken to its logical extreme it could, for example, be used to justify the conclusion that the effective functioning of a given treaty body is of no particular concern to the policy-making organs or that the interpretation accorded to a particular norm by the appropriate treaty body should not necessarily affect, in any way, the approach to an identical or very similar norm by another body (whether a policy-making organ or another treaty body). However, propositions such as these have been consistently contradicted by the policy and practice of virtually all of the relevant bodies.

54. Indeed, in a number of different ways the treaty bodies have come to be seen as an indispensable cornerstone for the activities of the United Nations human rights programme as a whole. Over the past few years the nature and extent of the interaction between the policymaking organs and the treaty bodies has increased very significantly. This interaction has manifested itself in a number of different contexts as the following illustrative survey indicates.

1. Reference to the work of the treaty bodies in matters of interpretation

55.In an address to the General Assembly on the occasion of the twentieth anniversary of the adoption of the Covenants, the Secretary-General noted that the Human Rights Committee had contributed significantly to the further elaboration of international human rights law in key areas (A/41/PV.54, p. 5). This comment has subsequently been borne out by various rapporteurs of the Commission on Human Rights, and other similar sources. Thus, for example, the then Special Rapporteur on summary or arbitrary executions observed in his 1992 report that:

> "The General Comments adopted by the Committee on Human Rights [sic], as well as the decisions adopted in cases considered under the Optional Protocol, have been cited frequently by the Special Rapporteur as a guide to the interpretation of international standards concerning summary and arbitrary executions." (E/CN.4/1992/30, para. 645).

56.In a similar vein, the Commission on Human Rights specifically requested the Special Rapporteur, to bear in mind, as appropriate, the Human Rights Committee's comments "in its interpretation of article 6" of the Covenant (resolution 1993/71, para. 9).

57. Similarly, the then Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment cited the relevant general comments of the Human Rights Committee at considerable length in his 1993 report. In his conclusion he notes:

> "If all Governments would take to heart the views and opinions of the Committee and would scrutinize their national system [sic] to see whether it is in conformity with these views and opinions and would start to introduce the necessary reforms, the campaign against torture would gain new momentum. The Human Rights Committee is a highly authoritative body ... Its views should ... be taken with the greatest possible seriousness." (E/CN.4/1993/26, para. 594).

58. The assumption that the work of the Committee is of major and direct relevance to the United Nations programme as a whole is perhaps most clearly expressed in Economic and Social Council resolution 1987/4, in which, inter alia, it welcomed the continuing efforts of the Human Rights Committee to strive for uniform standards in the implementation of the Covenant and appealed to other bodies dealing with similar questions of human rights to respect those uniform standards, as expressed in the General Comments of the Human Rights Committee. Given the Council's specific co-ordination mandate in the field of human

rights, such an expression of policy is of particular significance.

59. However, the Committee itself has acknowledged that its influence should extend beyond the United Nations system by defining the prospective audience of its decisions under the Optional Protocol broadly. In its view, their ready availability has been of great value to government departments, researchers and the general public. 22/ Other commentators have been less optimistic. One expert group has estimated that the influence of the Committee's general comments on States parties has been "insignificant, even when reference to [them] is put on the list of issues for the consideration of a report". 23/

60. The work of the Committee on the Elimination of Discrimination against Women has assumed major significance far beyond the immediate confines of the relevant treaty régime, in the context of a broad range of international activities touching on the issue of non-discrimination against women. As the Director of the Division for the Advancement of Women noted at the opening of the Committee's eighth session, the Committee's work has come to have an extremely important multiplier effect in the definition of global policies.24/ The important relationship between the work of the Committee and that of other relevant bodies has also been noted by the Commission on the Status of Women, which has indicated in its resolution 33/3 that it shares the concern expressed by the Committee that its recommendations be consistent with recommendations adopted by intergovernmental bodies dealing with the advancement of women or human rights issues.

2. Enhanced efforts to ensure coordination between treaty and Charter bodies

61. Various of the treaty bodies have been actively engaged in efforts to coordinate, to the extent appropriate, certain aspects of their work with that of one or other of the Charter-based organs. Of the many examples that could be cited, reference may be made to: the joint meeting between the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Committee on the Elimination of Racial Discrimination in 1991; the dialogue between the Committee on the Rights of the Child and the Commission's Special Rapporteur on the sale of children, child prostitution and child pornography; the opportunities provided by the Committee on Economic, Social and Cultural Rights for various Special Rapporteurs of the Sub-Commission (including, on different occasions, Messrs. Türk, Despouy, Eide and Sachar) to engage in a dialogue with it; and the exchanges of views held between the members of the Committee against Torture and the Special Rapporteur of the Commission on Human Rights on questions relating to torture.

62. The question of coordination assumes special significance in a context in which suggestions have been made that there are now too many mechanisms addressing the same issues. Although this is a theme to which this study returns in relation to the need for enhanced coordination among the treaty bodies themselves, it should be noted that the treaty bodies and thematic mechanisms are designed to fulfill significantly different functions. Indeed they can, and often seek to, complement one another rather than to duplicate. The differences in this regard have been carefully set down by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in his most recent report to the Commission on Human Rights (E/CN.4/1993/26, paras. 6-18). While the case made therein for the continuation of complementary mechanisms is very strong, it will be less so if both the treaty bodies and the other relevant mechanisms do not remain vigilant in their efforts to ensure appropriate coordination. 25/ A major difficulty in this regard, however, is that such coordination must rely heavily upon appropriate secretariat advice and analysis which, largely but not solely for reasons of inadequate resources, is not always available to the treaty bodies.

3. The submission of specific proposals for the consideration of the treaty bodies

63. In theory, with the exception of the International Covenant on Economic, Social and Cultural Rights, no provision is made for any direct relationship between the treaty bodies and organs such as the Commission on Human Rights and its Sub-Commission. Yet despite this lacuna, in recent years the Commission has, as a matter of course, addressed itself on a regular basis to the various treaty bodies. Similarly, Special Rapporteurs of both the Commission and the Sub-Commission have regularly made suggestions to the treaty bodies as to the conduct of their work.

64. A few examples from the Commission's forty-ninth session are sufficient to illustrate this point. Thus, the Commission: invited the treaty bodies to pay particular attention to the rights of persons infected with HIV or AIDS and those around them (resolution 1993/53, para. 4); invited the Committee on the Rights of the Child to study the possibility of bearing the Programme of Action for the Elimination of the Exploitation of Child Labour in mind when considering reports (resolution 1993/79, para. 5); requested the treaty bodies to include in their reports a reference to allegations of intimidation or reprisal and of hampering access to United Nations human rights procedures, as well as an account of action taken by them in this regard (resolution 1993/64, para. 4); encouraged the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child to pay particular attention to the question of extreme poverty (resolution 1993/13, paras. 3 and 4);

requested the committees to give particular attention to matters related to contemporary forms of slavery (resolution 1993/27, para. 14); and requested the treaty bodies to provide the relevant Commission mechanisms with all relevant and accurate information in their possession on the human rights situations creating or affecting refugees and displaced persons within their mandates (resolution 1993/70, para. 4).

65. For the most part, this treatment of the committees as being an integral part of the overall United Nations human rights régime is to be strongly welcomed. It may be, however, that careful consideration needs to be given to the limits that might be appropriate in this regard. Thus, for example, while information contained in reports submitted to, and adopted by, the treaty bodies is in the public domain and should certainly be taken into account by other mechanisms, it might not necessarily be appropriate to ask the treaty bodies to submit thematic reports to the Commission.

4. Communications from the treaty bodies to the Charter-based organs

66. The treaty bodies have on many occasions communicated their views on certain issues to the Charter-based organs. This has happened especially in relation to the World Conference on Human Rights and is likely to continue in relation to events such as the proposed World Summit on Social Development and the 1994 International Conference on Population and Development. Similarly, the Committee on the Elimination of Racial Discrimination has contributed to the formulation of the draft Programme of Action for the Third Decade to Combat Racism and Racial Discrimination. 26/

67. In a related development, some of the treaty bodies have also communicated with Charter-based mechanisms in relation to situations of particular concern. Thus, for example, in August 1992 the Committee on the Elimination of Racial Discrimination expressed its grave concern at developments taking place in the former Yugoslavia and expressed its 'trust' that the Commission on Human Rights "would take expeditious and effective measures" at a Special Session scheduled in that regard. The Committee also expressed "its readiness to cooperate in this endeavour within the framework of [its] mandate".27/ In relation to the same situation the Committee on the Elimination of Discrimination against Women, at its twelfth session, in 1993, wrote to the Special Rapporteur of the Commission on Human Rights to express its concern over violent acts taking place in the former Yugoslavia.

68. In a similar vein, the Secretary-General has suggested that ways should be explored "of empowering the Secretary-General and

expert human rights bodies to bring massive violations of human rights to the attention of the Security Council, together with recommendations for action".28/ This proposal subsequently received the full support of the fourth meeting of chairpersons (A/47/628, para. 43). The fact that each of the treaty bodies has, within the past year or so, decided to take special action in response to exceptional, or emergency, situations may be seen as an indispensable step towards responding to the need identified by the Secretary-General in relation to the Security Council. It also, and perhaps more importantly, is a way of responding to the view that the treaty bodies will lose their credibility unless they are seen to be responsive to massive violations or other emergency situations relating to matters that fall directly within their mandates.

69. But while this development is to be very warmly welcomed, it would seem to raise a number of important and complex questions of coordination which should be specifically addressed by the various treaty bodies, perhaps on the basis of an analytical paper prepared for them by the secretariat. The meeting of chairpersons should also have a role to play in this regard.

5. Proposals for new functions to be assumed by the treaty bodies

70. In principle, only the Committee on Economic, Social and Cultural Rights (because it is a creation of the Economic and Social Council, which therefore has the authority to determine its mandate) can be formally entrusted with new functions by the Charter-based organs. In practice, however, the inability of the Charter-based organs to expand the formal functions of the other treaty bodies (a measure which would require an amendment of the relevant treaty in accordance with the procedures provided for therein) has not deterred them from suggesting ways in which existing mandates might be applied in a different, or more expansive, manner. Thus, for example, the Commission has invited the treaty bodies "to monitor the compliance of States with their commitments under the relevant human rights instruments in order to ensure the full enjoyment of those rights by disabled persons" (resolution 1993/29, para. 7). Along similar lines, a recent report by the Secretary-General relating to Declaration on the Right to Development suggested that both the Human Rights Committee and the Committee on Economic, Social and Cultural Rights might be requested to "take into consideration the Declaration ... when examining States parties' reports", and that the latter Committee could also be asked, "when dealing with reports of both developing and developed States, bear in mind their obligation under Article 56 of the Charter" (E/CN.4/1993/16, paras. 53-54).

71. These various examples, which are by no means exhaustive,

demonstrate the extent to which the work of the treaty bodies has becoming increasingly intertwined with the overall human rights programme of the United Nations. For the most part, this phenomenon is greatly to be welcomed since it underscores the fact that both the treaty- and Charter-based bodies are engaged in a common endeavour to promote and protect human rights. By the same token, it must be recognized that there is a difficult line that must be maintained between, on the one hand, promoting the most effective degree of interaction and, on the other hand, ensuring that the distinctive characteristics of the committees' treaty supervisory functions are not inappropriately blurred or even lost. It is important, therefore, that all concerned should bear in mind the need to strike an appropriate balance in this regard.

D. Towards universality of membership in the treaty régime

72. The attainment of universal membership in the international human rights treaty régime is, in very many ways, central to the effective long-term functioning of that régime. It is thus an essential focus of consideration in the present study.

73. The term "universality" is used to connote two rather different, but nonetheless related, concepts. The first usage refers to the quest to achieve universal ratification of, or accession to, the principal international human rights treaties. The second usage refers to the extent to which the concept of human rights is universally consonant with diverse cultural, religious and other traditions. In this second context the concept of universality is sometimes contrasted to the assertion that all values, including rights, are culturally relative in the sense of being specific to the culture or society in question (and thus not susceptible to authentic universalization).

74. All too often these concepts are confused or combined with one another in ways that are not helpful. Acceptance of the view that culture has an appropriate role in the approach to, and manner of application of, universal standards need not in any way undermine the quest to achieve universal membership of the human rights treaty régime. Indeed, in many ways, the contrary position is by far the most persuasive. That is, that universal membership and active participation by all countries in the global human rights régime would provide the most constructive context in which to pursue the complex question of the role of culture in the application of human rights standards. The importance of this dialogue has been emphasized in the conclusions adopted by the Interregional meeting organised by the Council of Europe in advance of the World Conference on Human Rights:

> "We must go back to listening. More thought and effort must be given to enriching the human rights discourse by explicit reference to other non-Western religions and cultural traditions. By tracing the linkages between constitutional values on the one hand and the concepts, ideas and institutions which are central to Islam or the Hindu-Buddhist tradition or other traditions, the base of support for fundamental rights can be expanded and the claim to universality vindicated. The Western world has no monopoly or patent on basic human rights. We must embrace cultural diversity but not at the expense of universal minimum standards." 29/

75. There could be no better forum, or context, in which to pursue this dialogue in a structured, thoughtful and constructive manner than that provided by the treaty bodies. Universal membership is thus a goal of the utmost importance.

76. Both the General Assembly and the Commission on Human Rights have appealed to States, on innumerable, occasions to become parties to one treaty or another. In recent years, it would seem that this approach has been at least partly successful if measured by the increasing number of parties to many of the treaties. Although this picture of success needs to be tempered by acknowledgement of the fact that many of the new parties are newly independent States which were previously part of another State party to the relevant treaties, it remains the case that several States of very major importance, in all regions of the world, have extended their participation in the treaty régime significantly in recent years. Nevertheless, the fact remains that the two International Human Rights Covenants had been ratified by only slightly more than 60 per cent of the community of States as at 1 January 1993. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had achieved acceptance by only about 40 per cent of States.

77. The principal challenge then is how universality can most effectively be promoted by the United Nations. It is clear that there are limits to the extent to which the international community can go in "insisting" that States accept any particular international treaty obligations; such acceptance remains entirely a sovereign decision for each State to take in accordance with its own constitutional and other procedures. By the same token, however, it is important not to overstate this point to such a degree that it renders United Nations bodies unwilling to pursue the quest for universality with appropriate vigour.

78. In essence, three different approaches have been explored so far. The first consists largely of exhortation by each of the Charter-based organs and the various mechanisms established under them, including thematic rapporteurs and special rapporteurs.

Similarly, both the Secretary-General and the Under-Secretary-General for Human Rights have frequently urged States to ratify or accede to international human rights instruments (HRI/MC/1992/2, para. 8).

79. The second approach, undertaken primarily by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, has been to request States to indicate the reasons why they have chosen not to become parties to the relevant treaties. But one such request for information elicited no replies at all (E/CN.4/Sub.2/1992/27, para. 7). More recently the Commission on Human Rights has invited States that have not ratified or acceded to the treaties dealing with slavery "to explain in writing, if they so wish, why they feel unable to do so..." (resolution 1993/27, para. 4). But while a similar approach has been effective in relation to the standard-setting activities of the International Labour Organisation, this would seem to be more a function of the constitutional basis of the procedure in the ILO's case rather than of any general preparedness on the part of Governments to respond to such queries.

80. The third approach has been to offer advisory services to States with a view to assisting them to become parties to the principal instruments. Although it has most recently found expression in paragraph 3 of Commission resolution 1993/15, the link between advisory services and the encouragement of universal membership has long been drawn. While there is probably no satisfactory basis on which the effectiveness of this strategy could be evaluated, it is difficult to point to instances in which the type of services currently available have made a crucial difference in this respect.

81. In general, it seems fair to conclude that, despite the best intentions of all concerned, the strategy pursued to date has, for the most part, been piecemeal and lacking in depth as well as resources. What is needed now is for the United Nations to adopt a more sustained and carefully planned programme designed to achieve universality. Such a programme should consist of three principal elements:

(a) Universal membership in the treaty régime should be identified as one of the foundation stones of the human rights programme.

82. It should be portrayed as the best means of consolidating the universal foundations of the régime and of facilitating more sensitive and constructive consideration of the cultural dimensions of human rights implementation. This element of the programme should also involve treating the six instruments which are, in effect the focus of the present study, as constituting the fundamental core of the United Nations human rights system.

They should, to the greatest extent possible, be treated as part of a package so that States which have formally adhered to only some of the six should be urged in the strongest possible terms to complete their acceptance of the basic package. In particular, States which are parties to only one of the two International Human Rights Covenants should, in the interests not only of universality but of upholding the fundamental principle of the equality of the two sets of rights, be urged to ratify the other half of the basic package as soon as possible. As of 1 January 1993 there were six States which had ratified only one or other but not both of the Covenants. 30/

(b) The universality strategy should identify specific issues to be pursued and obstacles to be targeted.

83. There is no doubt that a lack of political will explains the failure of some Governments to have ratified the principal treaties. By the same token, however, there are also various other reasons why Governments might have been unable to ratify. In some cases those reasons might be of a rather mundane bureaucratic, administrative or financial nature. For the most part, these are not reasons which Governments are likely to want to set down in writing nor are the underlying issues likely to be addressed by the type of regional or sub-regional meetings that have been held so far within the framework of the advisory services programme.

84. Among the reasons that might well be impeding ratification or accession in some countries are the following: a lack of understanding of the implications of the instrument on the part of mid-level officials who would need to prepare the ground before the Government could act; a lack of trained personnel who could explain the implications of ratification with the necessary sophistication and detail to the relevant Government Minister; the existence of an element of confusion between the treaty body procedures and the special procedures of the Commission on Human Rights; a low budget priority for the measures needed to precede or accompany ratification or accession, such as the undertaking of a survey of existing law and practice, the drafting of necessary legislation or regulations, the training of officials etc.; the lack of an informed domestic constituency which would support Government proposals to ratify or accede to an instrument; and a fear that the reporting obligations would be too onerous for the country concerned.

85. Each of these difficulties, which are of an eminently practical nature, could perhaps best be addressed with the assistance of an expert who visits all countries concerned as a matter of course and who is able to mobilize a limited amount of resources to address specific problems that he or she identifies. Moreover, the programme itself could begin by identifying some of

the characteristics that appear to be common to countries that have not accepted certain instruments, and then devise appropriate strategies to address the relevant issues.

86. To take but one example, it is apparent from a list of States which have not become parties to either of the International Covenants that there is a predominance of those with relatively small populations. Indeed, as of 1 January 1993, there were 30 States with a population of two million or less in this category. Of those, 21 countries have a population of 500,000 people or less. Fourteen of those 21 can be classified as small island countries. Two-thirds of the 30 countries had an annual Gross National Product per capita of less than $2,000. 31/

87. Provided that the usual caveats in relation to such generalizations are kept in mind, several conclusions might reasonably be drawn from this data. Firstly, at least some of these small States are probably concerned that the legal, bureaucratic and administrative requirements involved are too onerous given the size of their population. Secondly, the reporting requirements might well act as a significant deterrent in such cases. Thirdly, the 20 States with very low populations and low per capita GNP might be strongly influenced by the resource implications of ratification. The addition of these States as parties to the Covenants might thus be facilitated by explaining carefully the various ways in which the ensuing obligations could best be handled, training domestic personnel, making technical assistance available in relation to the preparation of necessary legislation and of reports, or offering assistance to enable Government officials to present their reports in person to the relevant treaty bodies.

88. If measures such as these were successful, the rate of participation in the core régime based on the two Covenants could rise by some 25 per cent very rapidly. At a time when virtually every other major treaty régime, operating under United Nations auspices, goes out of its way to take special account of the specific circumstances of many of these States, it would seem to make little sense for the human rights treaty régime to insist that no such arrangements are warranted.

(c) A target date for achieving universality should be set and a strategy devised for achieving it. Implementation of the programme should be overseen by a specialist and resources should be earmarked for related activities.

89. The Executive Director of UNICEF recently proposed setting the year 1995 for achieving universal ratification of, or accession to, the Convention on the Rights of the Child. 32/ A similar approach should be applied to each of the other five basic treaties. The World Conference should set the year 2000 as

the year by which to ensure that all States have become full-fledged members of the international human rights treaty régime. Such a target would provide an important domestic goal and would greatly assist the task of those at the national level who are advocates of ratification. Moreover, it would provide the occasion for the Commission on Human Rights to undertake periodic reviews of progress achieved.

90. Finally, an effective ratification programme can only be implemented effectively by individuals who are thoroughly well versed in all of the relevant issues, have the appropriate linguistic and other skills and are able to devote themselves to the programme on a full-time basis. Expert members of the Committees cannot be relied upon for this purpose, except in a supplementary capacity. Similarly, resources must be specifically earmarked for this programme rather than being part of a general fund which may or may not be able to be used for this purpose. In other words, the ratification programme needs to be treated as if it is a serious priority concern.

III. REPORTING BY STATES PARTIES

A. The importance and functions of reporting procedures

91. The development of reporting systems lies at the very heart of the international system for the promotion and protection of respect for human rights. The establishment of such a system, related to the provisions of the Universal Declaration of Human Rights, was proposed within the United Nations as early as 1951 (see E/CN.4/517, p. 2). A comprehensive periodic reporting system was subsequently established within the framework of the Commission on Human Rights in 1956 by its resolution 1 (XII). The objectives sought to be achieved by this system were not narrowly conceived. On the contrary, they included, in addition to establishing an embryonic form of accountability by States in connection with their responsibilities under Articles 55 and 56 of the Charter of the United Nations the goals of providing an incentive to Governments' efforts; constituting a source of information for United Nations human rights activities in general; helping States to identify areas in which they might benefit from the provision of advisory services by the Secretary-General; and facilitating an exchange of information and ideas in the human rights area.

92. Nevertheless despite the widespread support in principle for the ad hoc reporting system, it did not function especially well in practice. As a consequence, the former Director of the United Nations Division of Human Rights concluded with deep regret in the early 1970s that the reporting system had "been allowed to

wither away without having been given a fair chance". 33/ In effect, however, that system has subsequently been replaced by the various reporting procedures established within the context of the treaties that have entered into force beginning in the late 1960s. The central importance of the new procedures has frequently been affirmed by the General Assembly including most recently in its resolution 43/115, in the preamble of which it recognized that:

> "The effective implementation of instruments on human rights, involving periodic reporting by States parties to the relevant treaty bodies and the efficient functioning of the treaty bodies themselves, not only enhances international accountability in relation to the protection and promotion of human rights but also provides States parties with a valuable opportunity to review policies and programmes affecting the protection and promotion of human rights and to make any appropriate adjustments".

93. It is noteworthy that even States parties that have experienced difficulties in complying with their reporting obligations have acknowledged the value of the procedure. Thus, as one such Government told the Human Rights Committee in 1988, the system has the merit of encouraging the carrying out of "a kind of examination of conscience demanded by the international community". 34/

94. In an attempt to shed additional light on the various functions performed by reporting systems, the first General Comment adopted by the Committee on Economic, Social and Cultural Rights sets out a variety of objectives, which, in the view of the Committee, should be served by reporting. 35/ To a large extent these objectives would seem to be applicable to all of the reporting systems covered by the present study. The following excerpts from the General Comment provide an indication of its content:

> "2. A first objective, which is of particular relevance to the initial report required to be submitted within two years of the Covenant's entry into force for the State party concerned, is to ensure that a comprehensive review is undertaken with respect to national legislation, administrative rules and procedures, and practices in an effort to ensure the fullest possible conformity with the Convenant ...
>
> "3. A second objective is to ensure that the State party monitors the actual situation with respect to each of the rights on a regular basis and is thus aware of the extent to which the various rights are, or are not, being enjoyed by all individuals within its territory or under its jurisdiction ...

> "4. While monitoring is designed to give a detailed overview of the existing situation, the principal value of such an overview is to provide the basis for the elaboration of clearly stated and carefully targeted policies, including the establishment of priorities which reflect the provisions of the Covenant. Therefore, a third objective of the reporting process is to enable the Government to demonstrate that such principled policy-making has in fact been undertaken ...
>
> "5. A fourth objective of the reporting process is to facilitate public scrutiny of government policies with respect to economic, social and cultural rights and to encourage the involvement of the various economic, social and cultural sectors of society in the formulation, implementation and review of the relevant policies ...
>
> "6. A fifth objective is to provide a basis on which the State party itself, as well as the Committee, can effectively evaluate the extent to which progress has been made towards the realization of the obligations contained in the Covenant ...
>
> "7. A sixth objective is to enable the State party itself to develop a better understanding of the problems and shortcomings encountered in efforts to realize progressively the full range of economic, social and cultural rights ...
>
> 8. A seventh objective is to enable the Committee, and the States parties as a whole, to facilitate the exchange of information among States and to develop a better understanding of the common problems faced by States and a fuller appreciation of the type of measures which might be taken to promote effective realization of each of the rights contained in the Covenant ..."

95. If there is any one element that runs through each of these functions like a thread it is the importance attached to the role of national level institutions in virtually all phases of the reporting process. It is all too often forgotten (or ignored) that the monitoring role played by the international treaty bodies is, for the most part, only a secondary or catalytic one. The primary role in the procedure should, and indeed must if the process is to be truly effective, be that played by all of the relevant actors at the national level. After all, the best promoters and protectors of human rights are those with the strongest stake in the outcome and the best knowledge and understanding of the situation - the citizens and residents of the country in question. As noted in the Tunis Declaration "[t]he component institutions, organizations and structures of society also play an important role in safeguarding and disseminating these rights; they should therefore be strengthened and encouraged" (A/CONF.157/PC/57, para. 4). Ideally then the

treaty bodies principal role would be to monitor the domestic monitors and to make sure that the process of implementation and monitoring in which the Government and its various social partners are cooperating is functioning effectively.

96. It is clear, however, that the current situation in many, if not most, countries falls considerably short of this model. But that is no reason for the treaty bodies to pay less attention to the need to encourage the evolution of appropriate domestic procedures. Such arrangements are, at least potentially, an indispensable prelude, accompaniment and follow-up to the actual examination of a State party's report. While the precise modalities of the best process at the national level will vary significantly from one country to another, there are certain basic issues to which the treaty bodies should in future be encouraged to pay greater attention. Although most of these issues have surfaced at one time or another in the work of each committee, there has been no systematic or persistent endeavour to ensure that they are addressed in relation to every State participating in the treaty régime. Those issues include the following.

1. Dissemination of the text of the relevant instrument

97. This involves full information as to the languages in which the treaty is available, the number of copies printed in each language, the extent to which those copies have been freely and widely disseminated and the means used for that purpose. Efforts to ensure the protection of the rights of individuals and peoples cannot be deemed adequate in the absence of a concerted effort to ensure that the holders of those rights are informed of the content of the rights as well as the means by which they may be vindicated.

2. The modalities of preparation of the State report

98. It has been suggested that Governments should "ensure popular participation" in the preparation of initial and periodic reports (Commission on Human Rights resolution 1993/14, para. 3) and that national human rights institutions should contribute to the preparation of State party reports. 36/ In practice, such approaches are, as one recent expert report concluded, rather rare:

> "Little [information] is available on the extent to which NGOs actually influence [the drafting] process in various countries, but it is assumed that officially approved, active NGO involvement in the preparation of State reports must be a rarity". 37/

99. But, in any event, although such contributions may be of

great value, it will not always be appropriate for either "popular" groups or national institutions to be directly involved in the preparation of what is, both legally and in practical terms, a quintessentially governmental report. What is essential, however, is for the text of the report itself to be readily available at the domestic level (which is often not the case), and for opportunities to have been presented for national debate or discussion of the content of the report. In situations in which no such discussion has occurred, it is probably safe to assume that the report is either so anodyne and detached as to generate no interest or that the appropriate forums have not been used. Governments should be encouraged to schedule their own reports for debate in the national legislature, for consideration by committees of experts or by nationally active non-governmental groups and should report to the treaty bodies on any such discussions.

100. At present the consolidated reporting guidelines ask States to indicate how their reports have been prepared, but this request seems to have elicited very little information of particular relevance. Thus in addition to each treaty body indicating that it attaches major importance to this issue, it may also be appropriate for the next meeting of chairpersons to address the issue in relation to the consolidated reporting guidelines.

3. The submission of information to the treaty body in connection with the examination of the State party report

101.This issue is dealt with below in relation to the question of sources of information.

4. Discussion, at the national level, of the results of the dialogue between the State party representatives and the Committee

102. This issue is also dealt with, in part, below in relation to the question of public information. It needs to be emphasized at this point, however, that no matter how probing, constructive and insightful the examination of a State party report is, it counts for very little unless there is some effective follow-up at the national level to the concluding observations adopted by the relevant treaty body. While it is too early to conclude that this follow-up is inadequate (because the treaty bodies have only quite recently begun to adopt meaningful conclusions of this type), it is not clear that very many States have effective follow-up procedures in place at this stage.

B. Current problems of reporting procedures

103. As noted in the introduction to the present study, a variety of problems have been encountered in recent years in the operation of the various reporting procedures. Since these have been described in some detail in the report of the fourth meeting of chairpersons (A/47/628) and in the reports of each of the relevant Committees, it is unnecessary to cover the same ground here. It must suffice to note that the principal manifestations of the problems are (a) inadequate or unsatisfactory reports; (b) the non-submission of reports; and (c) the inability of the treaty bodies to cope under existing circumstances if States parties were to honour their reporting obligations. While the first of these problems has been the subject of frequent comments in the various committees, its magnitude cannot readily be measured. The other problems, however, can be quantified.

104. The situation in relation to overdue reports has continued to deteriorate steadily in recent years. Thus, as at 1 June 1988, when 146 States were parties to one or more of 6 treaties covered by the present study, the number of overdue reports totalled 626 (leaving aside the Convention against Torture, under which reports were not yet due as at that date). This compared to a total of 460 overdue reports 2 years earlier (when only 3 less States were involved). 38/ By 15 March 1993, however, this number had grown to 971 reports and, if the Convention against Torture is included, the total was 1,009 overdue reports owed by 499 States parties. On that date the situation in relation to each treaty was as follows: 39/

Table 1: Current status of overdue reports, at 15 March 1993

Treaty	Parties	Parties with overdue reports	Total overdue reports
ICCPR	115	64	83
ICESCR	119	65	65
CAT	71	36	38
CERD	132	112	342
CEDAW	118	78	127
CRC	126	59	59
Apartheid	95	85	295
TOTAL	775	499	1,009

105. While it must be acknowledged that these totals could be reduced somewhat if a calculation was made to distinguish reports that are a few months overdue from those that are clearly delinquent, this would still not reduce significantly the dimension of the problem that currently exists. Moreover, the number of States parties whose initial reports are overdue, in some instances for as long as 17 years, is extraordinarily high. Leaving aside the Convention against Apartheid and the Convention on the Rights of the Child (because of its relatively recent entry into force) a total of 108 initial reports are due under the remaining five treaties. While the substantive consequences of non-reporting are potentially grave (see discussion below), the procedural consequences are also significant.

106. Indeed in this regard one of the most problematic aspects of the current situation is that the treaty bodies actually rely very heavily upon the continuing delinquency of a great number of States parties in order to be able to fulfill their obligations within the meeting time currently at their disposal. According to a calculation of the length of time it would take the different treaty bodies to review all of the reports due if they were to be submitted, based on 1992 statistics and on the number of annual meetings currently scheduled, an additional 32 years would be required. 40/

Table 2: The length of time it would take to review all State reports currently due if they were to be submitted:

	No. of meetings required*	Average no. of meetings per year	Average no. of meetings per year devoted to consideration of reports	No. of years required**
CERD	189	48(6 weeks)	33	6
CEDAW	110	19(2 weeks)	12	9
CAT***	22	31(4 weeks)	19	1
CCPR	241	82(9 weeks)	42	6
CESCR	156	26(3 weeks)	15	10

* This figure has been calculated using the different average times spent considering each kind of report (initial, second periodic, third periodic, etc.), and by identifying the number of overdue reports in each category (initial, second, third, etc.).

** This number has generally been rounded off to the nearest year.

*** For CAT this figure will change considerably with the 1993 annual report because quite a number of first supplementary reports came due in June of 1992 (after the 1992 annual report was produced), many of which have not been submitted to March 1993.

107. In the next section of the study some of the specific problems confronting the treaty bodies at present are examined. They should be read in the light of two caveats. The first is that the reporting system, for all its shortcomings or weaknesses, has developed very rapidly in only a little more than two decades. In many respects, this rapid evolution might not have been possible if the system had been more carefully planned from the outset. Overall, the system has, in a number of respects, surpassed the expectations that might reasonably have been held out for it originally. Thus, while far-reaching reforms might now be required this does not necessarily mean that the principles underlying the system have lost their validity.

108. The second caveat is that there is evidence to support the existence of a positive correlation between the efficiency and effectiveness of reporting systems and the extent to which States parties take their reporting obligations seriously. The most important implications of this proposition are that the treaty bodies themselves can play an important part in resolving some of the existing problems and that one of the best ways of doing so is to demonstrate that the results achieved by the process justify the efforts made by States parties to comply fully with their obligations. Seen from a different angle, this also implies that any measures designed to make the system more effective by being less demanding may well be counterproductive.

C. Responding to the non-submission of reports

109. The consequences of non-reporting and of significantly overdue reports are immense. Failure to provide an initial report is particularly disturbing since it constitutes prima facie evidence that the State concerned has failed to undertake the initial comprehensive review of law, policy and practice that should enable it to identify the panoply of measures required to bring the situation into conformity with the treaty. As noted above, there are currently some 108 such initial reports overdue,

a good many of which are well beyond the stage of merely being delayed. Failure to produce subsequent periodic reports is also very troubling because such failure may well reflect the fact that major problems do indeed exist and that Governments are anxious to avoid a dialogue with the relevant treaty body.

110. All parties concerned suffer from a failure to report. For the treaty body the price is relatively mild, although in the longer term its credibility is inevitably diminished. In the short-term it may well be receiving a somewhat distorted picture of the situation in the world. For the State party itself, the price is much higher. Government officials may justifiably come to assume that ratification or accession to a human rights treaty is an act that brings much sought after kudos but is otherwise of little consequence. The standards contained in the treaty are unlikely to be taken seriously in the context of domestic law and policy-making if the obligation to report to the treaty body, which in many respects is one of the less onerous implications of becoming a party, is ignored. Finally, any fears on the part of nongovernmental organizations or of political and other interest groups that the treaty system is toothless and even irrelevant are reinforced.

111. But perhaps the highest price is extracted from the system itself. The treaty régime must inevitably lose some of its precious credibility if a State can ostentatiously signal its acceptance of a significant range of obligations and then thumb its nose at the committee. Acceptance of such a situation also leads to a system of double standards whereby some States parties regularly subject themselves to monitoring and to the probing of the treaty bodies while others are not subjected to any such scrutiny, even though their records may be far less satisfactory. This concern led the fourth meeting of chairpersons to note "that a persistent and long-term failure to report should not result in the State party concerned being immune from supervision while others, which had reported, were subject to careful monitoring" (A/47/628, para. 71). In effect, the failure of the treaty bodies to insist upon carrying out their monitoring responsibilities can only encourage other States parties to delay, or entirely neglect, their own reporting obligations.

112. Rather than seeking to identify appropriate incentives and disincentives to address this issue, the treaty bodies have, for far too long, contented themselves with seeking ever more inventive ways to exhort States to report. In some cases these appeals have been effective, but in overall terms they have clearly not succeeded in preventing a situation in which more than 1,000 individual reports are overdue. It is imperative, therefore, that the treaty bodies, as well as the political organs, address this issue with determination and imagination.

113. There are four steps that should be considered in order to

address this problem:

(a) The provision of advisory services to States parties whose reports are more than two years overdue.

114. This suggestion has several dimensions. In the first place, it is essential to bear in mind the possibility that a failure to report (like a failure to ratify) will sometimes be due in significant part to mundane bureaucratic reasons. A lack of expertise at the national level, a failure on the part of the bureaucrats or politicians concerned to understand what is really required, the assumption that the task is so large as to be beyond a small ministry's capacity, etc., may all help to explain a failure to report.

115. Secondly, it should not be assumed that a routine offer of advisory services for this purpose will elicit a positive response, even from a State party with relatively minor problems and considerable goodwill towards the system. The system of advice in the preparation of overdue reports thus needs to be made more routine and less dependent upon the country concerned taking the initiative. The reasons for this are that: (i) the bureaucratic inertia responsible for the failure to report is very likely to apply equally to the request for assistance; and (ii) such requests are, often for no good reason, still seen to amount to an acknowledgement of failure in some way.

116. This is not to suggest that assistance should in any way be mandatory. It should certainly not be, since the decision on whether to honour its treaty-derived international legal obligation to report remains a sovereign matter for the Government concerned. Making such assistance more routine would, however, be very much in line with approaches already adopted in other contexts. Thus, for example, the United Nations Framework Convention on Climate Change specifically provides that one of the functions of the relevant secretariat is "[t]o facilitate assistance to the Parties, particularly developing country Parties, on request, in the compilation and communication of information required in accordance with the provisions of the Convention". 41/

117. One approach then might be to appoint one or more individuals whose sole responsibility would be to assist States to fulfill their reporting obligations. That person would have the necessary expertise, would develop a relationship of trust with Governments, would be able to operate in a low-key manner, and would be able to initiate direct contacts with the Governments concerned at the request of the treaty bodies.

118. Thirdly, following from the previous proposal, the relevant part of the United Nations advisory services programme needs to be radically revised in order to be able to respond to

the needs of the treaty system. This is dealt with in more detail below.

(b) The immunity from scrutiny, currently enjoyed by non-reporting States must be removed by scheduling the situation in those States for examination, even in the absence of a report.

119. This approach has already been endorsed by the fourth meeting of chairpersons which recommended "that each treaty body follow, as a last resort, and to the extent appropriate, the practice ... of scheduling for consideration the situation in States parties that have consistently failed to report or whose reports are long overdue" (A/47/628, para. 71). One treaty body (the Committee on Economic, Social and Cultural Rights) has already adopted this approach and its action has been welcomed by the Commission on Human Rights (resolution 1993/14, para. 4). Another (the Committee on the Elimination of Racial Discrimination) has done so with respect to States which have at least submitted an initial report. There is, however, no sound reason why the approach should be restricted to such States. Initial reports may be virtually irrelevant to the current situation, either because they were prepared long ago or because of fundamental changes which have occurred in the intervening period. In any event, importance should not be attached in the context of gross delinquency in reporting to whether the overdue report is initial or periodic in character.

120. The procedures adopted so far in developing this approach make it clear that the consideration of a situation in the absence of a report is purely a last resort. Even when a situation is scheduled the preferred option is for the State party to notify the committee that a report will be submitted within a specified (and short) timeframe and for that report to provide the basis for a dialogue of the established kind between the Committee and representatives of the State party. Even if the examination does proceed in the absence of a report it should be made clear to the State party concerned that its representatives are very welcome to participate in the proceedings. The committee should under these circumstances make a special effort to ensure that it obtains adequate information on the situation from all appropriate sources. Because of the need to maintain the reporting system's integrity and credibility all treaty bodies should consider adopting this approach as soon as possible.

(c) States parties whose reports are long overdue should be listed by name in resolutions adopted by the Charter-based organs.

121. The various organs concerned have so far avoided setting particular "tolerance" levels in relation to overdue reports for fear that acceptance of any such level would only encourage delays. Taken to its present extreme, however, this approach is counter-productive. While any delay is to be frowned upon, the treaty bodies should consider proposing, for adoption by the relevant Charter-based organ, a list of those States parties whose reports are beyond two years overdue. Once a report is more than three years overdue the treaty body should automatically decide to proceed with its examination and schedule the State concerned accordingly.

(d) States parties should be provided with a positive incentive to report by virtue of the availability of additional technical assistance.

122. This issue is dealt with below in relation to the advisory services programme. For present purposes, however, it needs to be stressed that such assistance would need to be additional to that which is currently available if it is to constitute a genuine incentive. The present situation completely lacks this element of "additionality".

D. The burden of coexisting reporting systems

123. It has been suggested with increasing frequency in recent years that one of the most significant problems facing States parties is the cumulative impact of the demands placed upon them for reporting on human rights matters. Thus, for example, one report submitted to the World Conference on Human Rights has called for reform of "what are now cumbersome and repetitious reporting duties". 42/ In a similar vein, the sixth preambular paragraph of a resolution adopted by the Commission on Human Rights at its forty-ninth session (resolution 1993/58, adopted by a vote of 33 to 16 with 3 abstentions) stated that "in view of the substantial increase in recent years in the number of mechanisms created in this sphere, many countries, particularly developing countries, have to prepare numerous periodic reports and answer a wide range of requests for information on facts or situations said to exist in these countries, requests that cannot be fully met as required or within the requisite time-limits".

124. In tackling this issue, several general propositions should be kept in mind. First of all, problems of proliferation are by no means limited to the human rights field. 43/ As the extent of international interdependence grows inexorably, and as it becomes increasingly apparent in more and more fields of action that international cooperation is indispensable, so too will the demands placed upon States expand. Secondly, the

indispensability of reporting mechanisms of various kinds should not blind us to the need to maintain under constant review the possibilities of streamlining and coordinating the demands placed upon States. Thirdly, in this context it seems reasonable to assume that there is a point at which additional demands become counter-productive, particularly if the status and importance of the relevant requests remain undifferentiated. Finally, it may also be assumed that new and rapidly evolving information systems offer important opportunities which have not so far even been explored.

125. While the focus of the present study is limited in scope, the issue of reporting obligations within the treaty régime cannot productively be examined in complete isolation from the closely related issue affecting the overall human rights system. For this purpose, it is essential to distinguish the different component parts of the problem before seeking to identify some solutions which might satisfy the twin criteria of (i) minimizing the burden placed on States and (ii) maximizing the effectiveness of measures to ensure respect for human rights.

126. The problem of proliferating requests for human rights reports is a multifaceted one. Viewed from the perspective of a specific State, requests may emanate from any or all of the following sources: (a) United Nations treaty bodies; (b) United Nations policy-making organs and most notably the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities and their respective subsidiary bodies; (c) specialized agencies and in particular ILO and UNESCO; (d) regional human rights treaty bodies; and (e) regional human rights policy-making organs. A variety of other, less formally institutionalized sources of requests for information could also be cited.

127. For purposes of the present analysis, five different categories of request for information can be distinguished. They are: (a) requests based on treaty obligations; 44/ (b) requests based on special procedures established by the Charter-based organs; (c) requests relating to the implementation of non-treaty-based standards; (d) requests relating to studies and surveys; and (e) requests emanating from non-United Nations sources. Problems of duplication and over-reach can arise both within and among these categories. But while it would therefore be appropriate in the context of a study of the problem as a whole to examine each category in detail, the present study must confine itself primarily to category (a) while also making a few pertinent remarks in relation to categories (b) to (e) in so far as they relate to the treaty régime.

(a) Requests based on treaty obligations

128. This category is dealt with below.

(b) Requests based on special procedures established by the Charter-based organs

129. While it may seem logical to an observer who is not fully versed in the legal and other details of the system as a whole to equate requests for reports from the treaty bodies with requests from Special Rapporteurs, thematic Rapporteurs, Working Groups and other such special procedures, it is essential that the fundamental distinctions between the two categories of request be borne in mind. Those distinctions arise at a number of levels. In terms of their legal foundations, the obligation to report under a given treaty is derived from the specific provisions of that treaty. It is not therefore within the competence of the Commission on Human Rights or any other poltical organ to contemplate any "arrangement" which would reduce those obligations on condition, for example, that States cooperate more fully with the special procedures. In terms of the nature of the information sought, the treaty reporting arrangements are by definition comprehensive, and their periodicity is more or less settled. In terms of urgency, the treaty bodies seek information of an urgent nature only in very exceptional circumstances and thus do not purport in any way to perform the same function in relation to alleged violations as do the special procedures. Finally, the treaty bodies cover only a limited number of States, whereas the special procedures are, by virtue of the provisions of the United Nations Charter, universal in scope.

(c) Requests relating to the implementation of non-treaty-based standards

130. Some of the non-treaty-based procedures are in effect quite formal. Perhaps the best example is the procedures for the effective implementation of the Standard Minimum Rules for the Treatment of Prisoners, adopted by the Economic and Social Council in its resolution 1984/47 and endorsed by the General Assembly in resolution 39/118 of 14 December 1984. Under those procedures, Governments are requested, inter alia, to respond to the Secretary-General's periodic inquiries on the implementation of the Rules and on difficulties encountered.

131. In addition, new proposals for similar procedures relating to non-binding standards continue to be made in various contexts. Several such examples must suffice. In relation to the Slavery Conventions, the Commission on Human Rights (in paragraph 7 of resolution 1993/27) recently encouraged the Sub-Commission on Prevention of Discrimination and Protection of Minorities "to elaborate recommendations on the ways and means of establishing an effective mechanism for [their] implementation". Similarly, in establishing a thematic working group on the right to development, with a view to the implementation of the Declaration

on the Right to Development, the Commission noted that its work would be based on information "furnished by Member States and other appropriate sources". Finally, in the drafting of a declaration on the rights of indigenous populations, the need for an effective implementation mechanism has frequently been stressed in the Working Group on Indigenous Populations.

132. The information sought in connection with these and various other reporting initiatives inevitably overlaps, albeit to varying degrees, with information required to be submitted to the treaty bodies. There is, therefore, at least in principle, significant scope for seeking to avoid the resulting duplication. An effort to do so would require at least two changes in existing procedures. The first would be to permit States which have reported on the precise matter in question to a treaty body to do no more than refer to the relevant paragraphs in reporting in response to the ad hoc request. The second would be to insist on improved reporting under the relevant treaties so as to ensure that the issues of concern in the ad hoc procedure are dealt with adequately.

(d) Requests relating to studies and surveys

133. This is an area which, in recent years, has witnessed a particular proliferation of requests to States for information. As in the case of category (c) there is considerable scope for making use of information already provided in reports to the treaty bodies. Such an approach would also, however, need to be premised on the changes noted in the preceding paragraph.

134. Another initiative, which could serve to reduce enormously the burden of these requests would be to authorize the secretariat to seek information already available in the public domain before making a formal request in a note verbale to all Governments. This alternative approach could readily be adopted provided that the secretariat is able to develop the Resource and Documentation Centre that has long been lacking. Thus, for example, a study on a specific issue could draw upon legislative texts, and analytical works already available within the Centre for Human Rights, as well as specific and carefully-targeted requests for information when necessary, rather than giving rise to the paper warfare that currently characterizes the process of preparing much of the documentation sought by the Charter-based organs from the secretariat.

(e) Requests emanating from non-United Nations sources

135. While it is clearly not within the jurisdiction of the United Nations organs to determine the approach adopted within the relevant regional and other organizations, a greater effort

could be made to coordinate relevant activities and to exchange information rather than requesting it twice. This is linked to the broader issue of relations with the regional organizations which is dealt with below.

(a) Requests based on treaty obligations

136. In the first version of this study (A/44/668, Annex) it was noted that extending the periodicity of reporting under the various treaty instruments would help to reduce the burden. Appropriate measures have now been adopted in this regard by virtually all of the treaty bodies. As a result, reporting under the two Covenants is now required at five-year intervals and under each of the other four conventions at four-year intervals.

137. In time, considerable advantages may be expected to flow from this less demanding and more closely co-ordinated periodicity. In drafting future treaties, however, consideration should be given to vesting a degree of discretion in the treaty body as to the periodicity of reporting. This would ensure that the system has a built-in element of flexibility while at the same time not simply permitting the meetings of States parties to determine for themselves how frequently (or infrequently) they might wish to report.

138. Two other measures were also proposed in the first version of the study. One, which was designed to reduce the burden on States, or at least to spread it more evenly over time, would be to seek to ensure that the due date for a given State party's reports under the different treaties is staggered as far as possible. Once the treaty system has begun to make effective use of computerization it should be relatively easy to work out a co-ordinated schedule for each State. The other related to the possibility of reducing the extent of overlapping reporting requirements, an issue to which we now turn.

E. Reducing overlapping reporting requirements

139. The problem of overlapping competences among the various treaty bodies is an inevitable consequence of the approach adopted by the United Nations compared to that of, for example, the Council of Europe. While the latter started with a single core treaty (the European Convention on Human Rights) and has subsequently expanded its scope by adding concentric circles around the core, 45/ the United Nations chose instead to supplement its two principal Covenants with a series of independent and increasingly narrowly focused instruments dealing in more detail, or with greater specificity, with issues that, to a significant extent, are also dealt with in the Covenants. Moreover, since each instrument is designed so that a State could

become a party to it without necessarily being a party to any of the other treaties and since each treaty body is entirely separate from the others, overlapping competences are effectively ensured.

140. Perhaps the most important, but also the most difficult, way of reducing the overall reporting burden on States is to encourage the respective treaty bodies as well as the States parties themselves to adopt measures designed to reduce the overlapping of existing reporting demands.

1. The core document or country profile

141. The easiest way of doing this is through the harmonization and consolidation of the reporting guidelines. However, this is only feasible in any comprehensive sense with respect to the country profile or what has come to be called the "core document". The system whereby each State party is requested to submit a single core document, to be used by each of the relevant treaty bodies in conjunction with the State party's substantive report relating specifically to the instrument in question, has now been approved by all of the treaty bodies. A number of States has now submitted such a report, although the great majority has not yet done so. 46/ But while the introduction of such core documents can be expected to save time for the reporting State and to ensure that each committee is presented with a reasonably comprehensive general profile of the State party, it does not go very far, however, in tackling the larger problem of duplication.

2. The possibilities for more broadly-based coordination

142. The nature and extent of the broader problem are best illustrated by taking a couple of examples. Many different rights could be used for the purpose but the right to freedom of association is probably as good as any. The right is recognized in six of the seven treaties covered by the present study. It is also contained in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Moreover, the two principal ILO Conventions dealing with that right have (as at 1 January 1992) been ratified by 98 States (in the case of Convention No. 87 of 1948 on Freedom of Association and Protection of the Right to Organize) and 113 States (in the case of Convention No. 98 of 1949 on the Right to Organize and Collective Bargaining). 47/ Thus any State that is a party to all or most of these treaties is obligated to submit periodic reports under each and every one of them detailing the situation with respect to, *inter alia*, the right to freedom of association.

143. The principle of non-discrimination is dealt with by an

even larger number of treaties and gives rise to even more complex questions relating to the overlapping competences of different treaty bodies. Some indication of the overall extent of overlapping among the six United Nations treaty bodies is provided by an analysis undertaken by the Secretary-General (E/C.12/1989/3) in response to a request by the Committee on Economic, Social and Cultural Rights, endorsed by the Economic and Social Council in its resolution 1988/4, that a report be prepared "showing clearly the extent and nature of any overlapping of issues dealt with in the principal human rights treaties, with a view to reducing, as appropriate, duplication in the different supervisory bodies of issues raised with respect to any given State party".

3. The development of a system of cross-referencing

144. Tackling the problem of overlapping competences is however far more difficult than ascertaining its extent. The principal difficulty is that, in formal terms, each treaty constitutes a separate legal régime with its own precise obligations, its own specific normative formulations, its own set of States parties and its own monitoring body. Thus, for example, in response to a suggestion that it should not be necessary to provide information to the Human Rights Committee on matters on which a report will be made to another treaty body, a member of the Committee has recently written:

> "How can it be right, as a matter of law or otherwise, that States enter into an obligation to provide information and submit to examination under Treaty A, but declare that unnecessary in part because of new arrangements entered into with certain other States under Treaty B? Even were the monitoring and compliance provisions in the later treaty equally effective (which is not generally the case) the suggestion is unacceptable. States will find a rather firm response from the Committee on Human Rights to this proposal as to how future reporting should be handled: the integrity of the Covenant implementing procedures would seem to be at stake." 48/

145. Yet this response would seem to be based upon a misunderstanding of the proposals that have been made and that do, in fact, appear to offer the best medium-term solution to the problem. The proposal is not that States parties should be exempted from their reporting obligations under one treaty because they have already reported under a different treaty. Rather it is that where a State has already provided information in a report to one treaty body that it believes should also be taken into account by another treaty body, the relevant information need not be submitted and reproduced twice (or even several times). Instead a reference to the other report should

suffice. Such a procedure in no way challenges or undermines the authority of a treaty body to request whatever additional information it requires and nor does the consideration of the information by one treaty body in any way prejudice the approach that another treaty body might adopt towards the same information. It is thus fully compatible with the preservation of the autonomy of each treaty body. 49/

146. A comparable cross-referencing procedure is even expressly provided for in article 17 (3) of the International Covenant on Economic, Social and Cultural Rights (see General Assembly resolution 2200 (XXI), annex), which states that:

> "Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice."

147. The appropriateness of moving towards a more concerted cross-referencing system may he illustrated by the case of children's rights. Since its entry into force in 1990 the Convention on the Rights of the Child has, as of 1 January 1993, been ratified by some 128 States. Of those, States which are also parties to the two Covenants will be expected to report to three different treaty bodies on very similar issues. Indeed, the Human Rights Committee's General Comment No. 17 (35) on article 24 of the International Covenant on Civil and Political Rights raises many of the same issues that are specifically addressed in the Convention. Under the circumstances, it would seem unnecessary, having first required a State to report in considerable detail to the Committee on the Rights of the Child, to then require that it reproduce much the same information in a different report to the Human Rights Committee. Moreover, similar information could also be requested by the Committee on Economic, Social and Cultural Rights under article 10 of the International Covenant on Economic, Social and Cultural Rights, as well as by the Committee on the Elimination of Discrimination against Women.

148. In an effort to determine how best to approach this potential overlap, the Committee on Economic, Social and Cultural Rights proposed that a meeting should be held with one or two representatives each of the Committee on the Rights of the Child, the Human Rights Committee, the Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights with a view to discussing how best to manage the supervision of overlapping treaty obligations. In endorsing this proposal the fourth meeting of chairpersons noted that the meeting had not been held because of lack of resources and called upon the General Assembly to consider making available the resources required (A/47/628, para. 88). The fact that any

such endeavour, designed both to ease the burden imposed upon States and to improve the efficiency of the relevant treaty bodies, cannot be pursued without specific financial arrangements being made at the highest level (which, in this case, has already taken some three years) surely indicates a defect in the system which would warrant being repaired.

149. In some respects at least, the procedures which currently need to be followed in order to pursue initiatives designed to enhance the effective functioning of the overall treaty system are not only cumbersome and time-consuming but may even act as a deterrent. There is a need to seek to introduce greater flexibility into the system, in both financial and bureaucratic terms. It may be that the decision to regularise the holding of the chairpersons meeting on a biennial basis and to ensure its financing from the regular budget (General Assembly resolution 47/111, para. 10), will enable that forum to serve such coordinating functions in the future. But if that is to happen, more sustained consideration should be given in the future by each treaty body to the specific issues that it would wish to see addressed by the Meeting.

150. The same issue of duplication also arises in connection with some of the human rights treaties adopted under the auspices of ILO. A good example is the general recommendation No. 13 (eighth session 1989) adopted by the Committee on the Elimination of Discrimination against Women, in which it recommended in paragraph 1 that:

> "In order to implement fully the Convention on the Elimination of All Forms of Discrimination against Women, those States parties that have not yet ratified ILO Convention No. 100 should be encouraged to do so". 50/

151. Having thus encouraged ratification of ILO Convention No. 100 (which concerns Equal Remuneration for Men and Women Workers for Work of Equal Value), the Committee could reasonably be expected to consider permitting States parties that have ratified both Conventions to refer to the information already provided to ILO in those parts of their reports to the Committee on the Elimination of Discrimination against Women that deal with equal remuneration for work of equal value. Such an approach has already been adopted by the Committee on Economic, Social and Cultural Rights in connection with ILO Conventions that are of direct relevance to the rights contained in articles 6 to 9 of the Covenant (dealing with the rights to work, to just and reasonable conditions of work and to social security, as well as with trade union rights). Thus, the reporting guidelines adopted by the Committee indicate, in relation to article 6 of the Covenant for Example:

> If your State is a party to any of the following [ILO]

> Conventions: ... and has already submitted reports to the supervisory committee(s) concerned which are relevant to the provisions of article 6, you may wish to refer to the respective parts of those reports rather than repeat the information here. However, all matters which arise under the present Covenant and are not fully covered in those reports should be dealt with in the present report. 51/

152. The difficult part of this proposal to encourage cross-referencing is how best to facilitate its implementation. Appropriate efforts can be made at three different levels. Probably the most important level is that of the States parties themselves. Each State should, on the basis of the instruments that it has ratified or proposes to ratify in the near future, seek to identify the instances in which cross-referencing can be used effectively and appropriately and draw up its reports accordingly. 52/ While some States have already begun to do this it is inevitably going to be difficult to achieve for those States which have very limited resources available to devote to reporting. This might therefore be an area in which advisory services provided by the Centre for Human Rights could be of particular relevance. In broad terms the principle that "the specific takes priority over the general" (A/C.3/43/5, annex, p. 12) is an appropriate rule of thumb to guide efforts to reduce duplication. Care must nevertheless be taken to avoid elevating such a rule of thumb to the status of a hard and fast rule. Moreover, as noted above, the use of cross-referencing must not be interpreted as eliminating the need (i.e. the obligation) to report to a particular body but simply as providing a less burdensome means of doing so.

153. Another initiative that might be considered at the national level is to follow the suggestion made by the second meeting of chairpersons to the effect that a specific administrative unit be designated at the national level as being responsible for the preparation of the reports to all of the treaty bodies by that State. Such a centralization of the principal reporting function would make far greater coordination possible than is the case where several different units submit reports in an uncoordinated fashion. A comparable approach has also been endorsed in relation to environment and development matters in Agenda 21 which provides that:

> "States may wish to consider setting up a national coordination structure responsible for the follow-up of Agenda 21. Within this structure, which would benefit from the expertise of non-governmental organizations, submissions and other relevant information could be made to the United Nations" (A/CONF.151/26 (Vol. III), Chap. 38, para. 40).

154. The second level at which action may be taken is that of the treaty bodies. Each Committee could be asked to consider

providing some guidance to States parties with respect to appropriate instances of cross-referencing that might be taken into account. In this respect the possible computerization of the work of the treaty bodies would obviously greatly facilitate any efforts in this direction. It should be acknowledged, however, that this would require a degree of coordination and consultation for which the different treaty bodies have yet to demonstate their capacity. Again, the role of the meeting of chairpersons is vital. That forum in turn, however, is unlikely to make significant progress in the absence of a list of clearly stated options provided by the secretariat.

155. The third level is that of the specialized agencies and, in particular, ILO. In 1969 the International Labour Office undertook a detailed and precise "Comparative Analysis of the International Covenants on Human Rights and International Labour Conventions and Recommendations". 53/ That analysis could be of great assistance in guiding the approach adopted by each of the treaty bodies to the use of ILO standards and information provided by States parties thereto. The Office should therefore be encouraged to consider the preparation of an updated and expanded analysis that would take account of all of the six United Nations treaties covered by the present study. Other relevant agencies could undertake similar analyses to the extent that it is felt that duplication in reporting could ultimately be reduced as a result.

F. Enhancing the capacity of the treaty system as a whole to address specific themes

156. An issue which raises questions of coordination but has not been adequately recognized, let alone addressed, concerns the possibility of an informal division of primary competences among the different treaty bodies. The issue arises because of the overlap between different treaties, as illustrated above in relation to the rights of the child, freedom of association and non-discrimination. The absence of coordination would seem to be at least partly to blame for the fact that certain issues have been neglected by at least some of the committees, despite the clear mandate they have in relation to those issues.

157. The most prominent, and in some ways the most difficult issue in this context concerns the rights of women. It is now widely acknowledged that United Nations human rights bodies have tended to marginalize this fundamentally important issue, at least in part because of the assumption that it is being dealt with elsewhere (such as by the Commission on the Status of Women or the Committee on the Elimination of Discrimination against Women). At a certain level this assumption is accurate, but many observers would argue that it is essential for each and every human rights body to seek to promote the rights of women within

the scope of its activities and mandate. There is, according to this reasoning, no justification for any particular treaty body, whose mandate clearly includes the elimination of discrimination on the grounds of sex, to assume that that part of its own work is being, or even could be, done by any other body. In line with this approach the Commission on the Status of Women, as well as the various regional preparatory conferences for the World Human Rights Conference, have all urged that greater attention be paid to women's human rights issues. 54/

158. In relation specifically to the work of the treaty bodies, the Committee on the Elimination of Discrimination against Women, has recommended to the World Conference that "gender-specific information and analysis should be fully integrated into the implementation of all human rights instruments". 55/ There can be no question that this approach is correct. Nor can it readily be denied that some of the treaty bodies have devoted relatively few of their energies to these concerns. The proposal does, however, raise the question of whether there is an informal division of labour that might more effectively and efficiently ensure that women's human rights issues are examined systematically and comprehensively to a far greater extent than is currently the case. Implicit in the question is the suspicion that asking all five treaty bodies to focus on the issue in a broad and unrestricted manner has not led to any of them actually doing very much, whereas the development of clearer proposals as to what more precisely ought to be done by which body might be more productive.

159. An illustration may help to demonstrate that it is not especially helpful to adopt a purely legalistic approach to this issue by pointing to the fact that the competence of each committee is different and is clearly defined in the relevant instrument. Concern to protect the economic rights of women arises squarely within the context of both the Convention on the Elimination of Discrimination against Women and the Covenant on Economic, Social and Cultural Rights and to a lesser extent in the Convention on the Rights of the Child. There is therefore full scope for the issue to be pursued in depth in each context, as well as in relation to the Covenant on Civil and Political Rights non-discrimination provisions and the relevant provisions of the Convention on the Elimination of All Forms of Racial Discrimination.

160. Before proceeding with this analysis it is essential to emphasize that, while the women's human rights dimension of this issue is very important, it is by no means the only one which gives rise to the present concern. Indeed, some of the other issues would appear to have been subject to even more pervasive benign neglect under current arrangements. Many discrimination-related issues could be cited in this regard. The plight of the ageing and elderly has not been addressed systematically by any

of the committees, although the Committee on Economic, Social and Cultural Rights is beginning to do so. The situation of disabled peoples has also received very little attention, despite the fact that it arises in relation to the concerns of all of the relevant treaty bodies. The same might be said in relation to indigenous peoples, migrant workers, HIV/AIDS victims and various other such groups. In addition to these partly discrimination-related matters, there are many substantive rights issues that also cut across the mandates of the different treaty bodies, which tend sometimes to fall between the cracks.

161. As the Charter-based organs become more aware of the central role of the treaty bodies in the overall human rights régime, they are tending to address more and more requests to them to focus on specific concerns. These requests have sometimes been addressed to specific bodies and sometimes not. Thus, for example, at its forty-ninth session the Commission on Human Rights:

- invited the Human Rights Committee, the Committee on Economic, Social and Cultural Rights "and other similar bodies" to address relevant HIV/AIDS-related issues (resolution 1993/53, para. 4);
- invited "the human rights treaty bodies, notably the Committee on Economic, Social and Cultural Rights and the Human Rights Committee" to monitor disability-related issues (resolution 1993/29, para. 7);
- recommended that "the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child" to give particular attention to matters pertaining to contemporary forms of slavery (resolution 1993/27, para. 14); and
- in relation to child labour, noted that "the United Nations human rights bodies should continue to be concerned with this question (resolution 1993/79, Annex, para. 29).

162. This list could be extended but it would serve little purpose. The point is that the treaty bodies in general are increasingly being asked to give their attention to particular attention, although there is little evidence to show that their approach to their work has been significantly affected by such requests to date. It is submitted that this is, to a large extent, a matter in relation to which a much greater coordination effort is required.

163. Perhaps in recognition of this fact, the Commission on

Human Rights has recently encouraged closer cooperation between, inter alia, "the Committee on the Elimination of Discrimination against Women and other treaty bodies" in the "promotion, protection and implementation of the rights of women" (resolution 1993/46, para. 5) and has invited the Secretary-General "to consult with all United Nations human rights bodies, including the treaty bodies, on the implementation" of the resolution (ibid., para. 7). This would seem to present an opportunity for the treaty bodies to consider whether some modalities can be worked out among them to allocate primary responsibility for addressing a given dimension of an issue to one body or another (in cases where the State party in question is a party to several treaties). Such arrangements would need to be flexible, subject to change and reflected in the reporting guidelines.

G. Possible long-term options involving fundamental change

164. There are at least three possible long-term options that might be considered with a view to decreasing the reporting burden upon States which are parties to all, or at least several, of the treaties dealt with in this study. It needs to be stressed at the outset of this discussion, however, that it is based on four premises. The first is that the method of monitoring States parties compliance with their treaty obligations by means of reporting is an essential part of the régime and remains not only a viable, but a potentially very effective, technique. No consideration should be given to its elimination. The second premise is that the rapid, uncoordinated growth of the overall treaty régime, in all its dimensions, will eventually demand that consideration be given to approaches which involve more fundamental changes than have been discussed in the preceding sections of this study.

165. The third premise is that the burden which prompts consideration of these options is that borne by a State which is a party to at least several treaties. States which are a party to only one or two would seem to have far less cause to complain of an undue burden. The fourth premise is that States have voluntarily accepted the reporting obligations contained in each treaty; it should not therefore be thought that there is anything inherently unfair in seeking to hold them to those legal commitments.

(a) Reducing the number of treaty bodies and hence the number of reports required

166. Against this background, the first (and most radical) long-term option is to consolidate the treaty régime so as to reduce the number of treaty bodies and, accordingly, the number of reports required of a State which is a party to several treaties. Such a consolidation could be limited in scope so that

two or three committees would replace six and the number of reports reduced to the same number, or it could be comprehensive so that only a single report (perhaps as well as specific supplementary reports) submitted to a single committee would be required. This option is explored in greater detail in the final chapter of this study.

(b) A single 'global' report

167. The second option is, in some ways, linked to the first. It would involve the preparation of a single 'global' report by each State which would then be submitted to each of the relevant treaty bodies to which that State is legally required to report. This proposal has been put forward at both the third and fourth meetings of chairpersons, but not developed in any detail. It is not possible within the confines of the present study to analyze all of the issues raised by this approach but it is useful to at least touch upon some of the main ones.

168. At one level it might be objected that such an approach is inconsistent with the provisions of each of the treaties. There is, however, no reason why this need be the case. Indeed, it would seem to be possible today, at least in principle, for a particular State to adopt such an approach unilaterally by preparing a single comprehensive report and submitting it to several treaty bodies at about the same time. Provided that the reporting guidelines relevant to each treaty were met and that the report was submitted within a timeframe acceptable to each of the committees, no formal difficulties would seem to arise. Nevertheless, if such an approach were to be specifically endorsed by the various treaty bodies there would be good reason for a major effort to be made to coordinate reporting requirements somewhat and to seek to synchronize reporting schedules for each State. Ultimately, the relevant treaties could be amended accordingly, but this would not seem to be urgent or even essential.

169. Thus the practical dimensions of the proposal warrant more attention than the legal dimensions. In this regard, it would clearly have major advantages as well as some clear disadvantages. Whether the former convincingly outweigh the latter, or not, is a matter for States to decide. To begin with the advantages, a global report would give effect to the doctrine of the equality of the various rights in a singularly compelling way. Each committee would be presented with a truly comprehensive picture of the overall situation in the State party and be enabled to appreciate more fully the context in which particular issues are situated. A global report would also resolve, definitively, the otherwise unavoidably complex question of how different committees could avoid overlapping in terms of the issues dealt with (this issue is discussed again below).

From the perspective of the State party the main advantage would be in the need to produce only one report in a five year period. While that one report would clearly be considerably more time-consuming to prepare, there would inevitably be significant economies of scale in not having to produce a series of often overlapping reports at different times.

170. The State would also have a much stronger incentive to produce a detailed and thorough stock-taking of the human rights situation than is currently the case when none of the six reports that might be required over a five-year reporting cycle will be seen to be especially definitive or comprehensive. From the perspective of the most important constituency of all - the local community in the State concerned - it is much easier to focus upon a single report on the state of human rights in that country than to make sense of a bewildering array of reports, each with a different emphasis, each submitted to a different international body at different times, subject to significantly different procedures when being considered, and so on. The possibilities for developing a genuine national dialogue would seem far higher in relation to one such report than to a series of them. Finally, the preparation of a global report would be more likely to involve high-level policy-makers and to constitute a process in relation to which advisory services would be both more relevant and more sought after.

171. On the other side of the balance sheet there are some significant disadvantages. In the first place the State party would only be required to report once every five years which, in human rights terms, is a long time. One of the factors that made an extension of reporting periodicity appropriate in recent years was the assumption that most States would be reporting to more than one committee and would thus be under scrutiny of one kind or another by an international body several times in a single five year period. Nevertheless, this concern is less compelling in light of the increasingly common practice of committees to call for special or supplementary reports when circumstances so warrant, regardless of the regular reporting schedule. Thus, even though a formal, comprehensive report would only be required every five years, additional, more narrowly focused reports could be called for as required.

172. Another disadvantage is that the global report would probably need to be very lengthy. But while its preparation would thus be demanding, it might still represent a significant saving of time by comparison with the present system. From the point of view of a particular committee there would be far more to read, but the broader context covered by the report might make many questions of the type currently asked unnecessary. Moreover, each committee would, in practice, be primarily concerned only with a particular part of the report, such as that relating to children, women, torture, etc.

173. The resulting reporting guidelines would inevitably be very extensive. A single report would, however, provide a context in which duplication in reporting guidelines could be dealt with far more effectively than is ever likely to be possible under the present system. If there is significant interest on the part of States in this option it is suggested that a detailed feasibility study be requested to be prepared by the secretariat as an aid to further consideration of the issue.

(c) Replacing comprehensive periodic reports with specifically-focused reports

174. One possibility which has been raised but not explored in the Committee on Economic, Social and Cultural Rights is to replace the existing approach whereby a State party is required to submit a periodic report covering the entire gamut of issues covered in the relevant treaty, by the requirement of a report that addresses only a limited range of specific issues identified in advance by the responsible committee.

175. There are two principal rationales for considering this option. The first is simply the extent of the reporting burden currently imposed on States that are parties to all six of the principal treaties. While some States might not, in fact, feel unduly burdened at present, it has to be acknowledged that this might be more a reflection of the inadequacy of the reports currently being submitted than of the manageability of the overall demands if they were to be satisfied in the manner sought by each committee.

176. The second rationale is that existing reporting requirements are so extensive that it is difficult at best, and impossible at worst, for some States to satisfy them entirely. The example of the Committee on economic, Social and Cultural Rights is instructive in this regard. When it first met, in 1987, its work was based on existing guidelines that had been drawn up a decade earlier. Their approach is best illustrated by taking an example. Article 7 (b) relates to the relatively minor issue of "safe and healthy working conditions". The guidelines requested each State to submit, inter alia, all of its "principal laws , administrative regulations, collective agreements and court decisions" along with details of the "principal arrangements and procedures (including inspection services and various bodies at the national, industry, local, or undertaking level entrusted with the promotion or supervision of health and safety at work) to ensure that these provisions are effectively respected in individual work-places" (E/C.12/1987/2). As the present writer has observed elsewhere: "[o]nly the arrival of semi-trailer loads of documents at the Palais des Nations in Geneva could have signified that a medium-sized industrialized State was taking such a reporting requirement seriously". 56/

177. When it decided to revise its reporting guidelines the Committee was faced with two alternatives. The first was to be highly selective and to seek only a limited amount of information from States, thus making the reporting process manageable and potentially increasing the likelihood of receiving detailed and comprehensive reports. The principal objection to this approach was that many issues that are of major importance would thereby be ignored by the guidelines and States would, in effect, not be held to account in relation to such matters.

178. The other alternative, for which the Committee eventually opted, was to draft detailed and lengthy guidelines covering all of the issues raised in the guidelines and requesting disaggregation of information to reflect the specific status of a range of different "vulnerable and disadvantaged groups". The result is that a State party would need to present a vast amount of information in order faithfully to comply with all of the requests posed. One of the resulting risks is that reports end up covering a large array of issues but do so in only a fairly superficial manner. The Committee is then in a position where it is difficult, if not impossible, for it to probe into a matter of concern in sufficient depth to enable it to get to the heart of the matter. When dealing with reports from federal States the problem is further compounded.

179. It is true that this problem is particularly acute in relation to economic, social and cultural rights but it should be noted that three of the other treaties (dealing with children, women and race) all have a large component of such rights and thus all face a similar dilemma.

180. How then might an alternative approach work? In effect, the existing system would be reversed. Instead of beginning with a State report and then drawing up a list of specific issues to be the principal focus of the Committee's examination, the process would begin with the identification by a Committee (or its designated Working Group) of the key issues in relation to which the State party is requested to report. The Committee would determine these issues on the basis of all information available to it and would not generally require information on matters in relation to which there appeared to be no significant problems or difficulties. This would mean that a State party would not have to present a comprehensive report but would be expected to report in detail only on the issues identified. Thus, the overall reporting burden would, in most cases, be greatly reduced but the specificity and timeliness of information provided would be specifically enhanced.

181. This approach would also enable States parties to choose the composition of the delegation to appear before the Committee with much more attention to the specialist expertise required.

As long as questions are liable to be asked on a very wide range of issues States will continue to send generalists. If a State party knows in advance that the principal concentration will be on, for example, prison conditions, the justice system, the electoral system or social security arrangements, appropriate experts can be designated. A dialogue with such experts would, at least potentially, be far more productive than are many of the dialogues taking place under the existing arrangements.

182. Such an approach would not, of course, apply to initial reports due under any of the treaties since a comprehensive initial review of the situation is an important dimension of the process as a whole. Nor would this approach preclude individual committee members from raising issues other than those identified for primary consideration. In addition, the approach would not need to be applied in an identical manner by all committees. Thus, for example, it might make sense for the Human Rights Committee and perhaps the Committee against Torture to continue to require regular periodic reports while the other committees might opt to adapted their existing approaches to some extent along the lines proposed.

IV. FUNCTIONING OF TREATY BODIES: FINANCIAL AND ADMINISTRATIVE ISSUES

A. Financing arrangements

183. When the first version of this study was submitted, in 1989, the problem of ensuring adequate financing arrangements to enable two of the existing treaty bodies to function effectively, as well as two other potential bodies, was of very major importance. It was, in fact, the issue dealt with at the greatest length. In the intervening period, effective diplomatic initiatives have taken place and amendments to both the Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture have been adopted. As a result the Secretary-General has been requested to take the appropriate measures to provide for the financing of the two committees from the regular budget of the United Nations, beginning with the budget for the biennium 1994-1995 (General Assembly resolution 47/111).

184. These developments are to be very warmly welcomed since they ensure that the funding of the sessions of the relevant treaty bodies can no longer be put in jeopardy by the financial delinquency of a few States. It is now of the utmost importance that all States parties to those two treaties should move to ratify the amendments so that they can take effect at the

earliest possible moment.

B. Length and frequency of Committee sessions

185. Another issue of considerable importance in the future concerns the adequacy or otherwise of existing arrangements with respect to the length and frequency of the sessions of the various bodies. At present, there is substantial variation from one body to another. Thus, for example, while the Human Rights Committee meets for nine weeks a year with an additional three weeks for working groups, the Committee on Economic, Social and Cultural Rights generally meets for only one third of that time (i.e. three weeks plus one week for a single working group). This discrepancy exists despite the fact that each Covenant has virtually the same number of States parties. As an exceptional measure the Economic and Social Council has authorized the Committee on Economic, Social and Cultural Rights to hold an additional three week session in May 1993 to deal with the existing backlog of reports.

186. The Committee on the Elimination of Discrimination against Women, in accordance with article 20 of the relevant Convention "shall normally meet for a period of not more than two weeks annually". This has proven to be clearly inadequate and the General Assembly has, on several occasions, authorized a limited extension of meeting time. Most recently, in its resolution 47/94, the Assembly endorsed the Committee's request that its twelfth and thirteenth sessions should be of three weeks each. Subsequently, at its twelfth session the Committee recommended amendment of the Convention "to provide adequate meeting time by eliminating the limitation set out in article 20" (E/CN.6/1993/CRP.2, Annex I, para. 6 (b)).

187. The newest of the treaty bodies - the Committee on the Rights of the Child - has also found the time available to it initially to be inadequate. Accordingly, the General Assembly recently approved the recommendation of the meeting of the States parties to the Convention on the Rights of the Child that the Committee should have up to two three week sessions each year with a week long pre-sessional working group well in advance of each session (resolution 47/112, para. 10). It is notable, however, that even after this decision had been taken the Commission on Human Rights expressed its "concern at the increasingly heavy workload of the Committee ... and the resulting difficulties faced by it in the fulfilment of its functions" (resolution 1993/78, para. 15).

188. Partly as a result of the different time spans available, the time allotted for the examination of each State party report varies significantly from one treaty body to another. Thus, the

Human Rights Committee generally devotes between three and four meetings (the equivalent of one and a half to two days) to each periodic report while the Committee on the Elimination of Discrimination against Women and the Committee on the Elimination of Racial Discrimination have recently spent less than a single meeting (i.e. less than three hours) on each report. For example, at its thirty-fourth session, the latter Committee created a record by examining 26 reports in the space of 14 working days. 57/ The Committee on Economic, Social and Cultural Rights currently devotes a little more than two meetings to each report.

189. The time available to the Human Rights Committee inevitably enables a much more detailed and thorough examination to be undertaken. A member of that Committee has written that "while wordiness is no guarantee of worth, a serious report must necessarily be of a certain length; as must a serious examination. Ten page reports and two hour examinations are simply pointless". 58/ Similarly, at the second meeting of chairpersons, it was noted that "a thorough examination of a report and a genuinely constructive dialogue with a State party required at least two meetings" (A/44/98, para. 40). But while the difficulties of conducting a comprehensive examination in the space of three hours are not to be underestimated, the present reality is that several of the treaty bodies presently have no choice but to try. Each of them has, at one time or another, expressed the view that more time would be desirable but, for a variety of reasons, it has not been forthcoming.

190. In recent years the Committees concerned have recognized the problems and have sought to deal with them through procedural innovations designed to maximize the effective use of available time. There is, however, a limit to the amount of streamlining and simplification that can be undertaken without at the same time damaging or even destroying the effectiveness of the reporting system.

191. In the medium term, it will be necessary to devote more systematic attention to the need for extended, or more frequent, sessions (or both) for some of the existing treaty bodies. As more and more States become parties to the relevant instruments, as reporting guidelines become more precise and sophisticated (and probably more demanding) and as the quality of reports improves, the need for more time will become too pressing to ignore. That is not to suggest that all treaty bodies should seek to emulate the Human Rights Committee in every way or that they should be given exactly the same meeting time as it has. In fact there is, and should be, considerable room for variations in procedure and emphasis from one treaty body to another.

192. The first version of this report listed three measures that could be taken in the short-term to enable some of the

committees to make maximum use of available time and resources. To a very considerable extent, each of these three measures has been employed extensively in recent years. The first measure, as specifically endorsed by the second meeting of chairpersons, is to encourage "each treaty body [to] consider how best to make use of the expertise of its members during the periods between sessions" (A/44/98, para 100). This technique is particularly pertinent to the preparation of General Comments or comparable analyses and the analysis of issues that are of general concern to the relevant committee. The second is to determine that the "normal" meeting period for the Committee shall not apply when an abnormal number of reports is awaiting examination. Thus, if a specific threshold number is exceeded the General Assembly could, as a matter of course, authorize an extraordinary session in an attempt to return the situation to normal. The third is to provide the resources to enable a working group or groups of the Committee to meet either on an inter-sessional or pre-sessional basis.

193. However, despite the additional productivity achieved through the use of these measures, the fact remains in 1993 that many of the treaty bodies are only able to function within their existing allocations of meeting time because of the enormous rate of overdue and unsubmitted reports, and because they are devoting a clearly inadequate amount of time to the consideration of each report. Once the various committees begin to schedule for consideration the situation in States parties which have not submitted a report, the amount of total meeting time required will jump considerably. Based on anticipated 1993 sessions the six committees between them will meet for 34 weeks with at least seven weeks of pre-sessional working group meetings. If this schedule is to be expanded to reflect: (i) a reasonable amount of time per report; (ii) a significant increase in the number of States parties; and (iii) a greatly improved rate of submission of reports on time, the total could probably be doubled without difficulty. This again points to the need for either greatly increased resources to be made available or for some major innovations to be introduced into the system as a whole, or both.

C. Conditions of service for experts

194. An issue which has not been faced up to by the General Assembly to date concerns the payment of honoraria to members of the treaty bodies. The 18 members of the Human Rights Committee have received such payments ($5,000 to the Chairman and $3,000 to the other members per year) since 1981. 59/ When the payment was originally proposed, an analogy was made to the International Law Commission whose members also receive an honorarium. The practice raises two questions. The first is why the members of the other human rights treaty bodies do not receive any such sum.

One answer is that article 35 of the Covenant expressly allows for honoraria, so too do the relevant provisions of the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. That leaves three committees whose members receive no honoraria. But it is entirely unclear how such a distinction can be justified when the various Committees are charged with comparable tasks.

195. The second is why the honorarium is so small, given that each member of the Human Rights Committee spends almost three months a year in Committee meetings while the amount received is around two weeks salary for a mid- to junior-level Professional Officer in the Centre for Human Rights. The easy answer is that most, if not all, of the members are already receiving an annual salary from their regular employers. But this takes for granted a problem that is built into the present system, which is that few experts other than government officials, university professors or retired persons could afford to devote so much time to the work of a treaty body without receiving any significant remuneration. The situation will become even more problematic as the Human Rights Committee's total annual meeting time is extended. It may be noted that the expert members of the European Commission on Human Rights (who currently meet for 14 weeks a year, only 2 more than most of their Human Rights Committee counterparts) are automatically "appointed in the service of the Council of Europe for two thirds of their working time", and remunerated accordingly. 60/

196. A final matter which relates in some way at least to the present topic is the fact that absolutely no working facilities are provided to members of the treaty bodies when they are in Geneva to perform their committee functions. While the matter can easily be made to sound petty, it is not. A member needing to prepare a report, to consult available information, to work on a draft general comment, or merely to read background materials, must do so in the coffee lounge or the Library. In the latter he or she has no automatic borrowing priveleges and is by no means necessarily assured of a desk at which to work. There are absolutely no office facilities at the disposal of experts, such as a word processor or a fax machine. In part this reflects the "primitive" (to use the term chosen by the fourth meeting of chairpersons - A/47/628, para. 49) working conditions under which officials in the Centre for Human Rights have been compelled to work. It is essential, however, that efforts to improve the latter, which are already under way, should also include consideration of the inappropriate situation of committee members.

D. Secretariat servicing

197. A consistent theme that has continued to emerge from

recent reports of the various treaty bodies is the need for more significant and sustained secretariat servicing. In 1988, the second meeting of chairpersons noted that the level and amount of such services is "an important determinant of how efficiently and effectively" the various Committees were able to function (A/44/98, para. 72). Four years later the fourth meeting of chairpersons noted that the resources available were still grossly inadequate. They noted that:

> "[t]his inadequacy has ... led to a situation in which requests for assistance by the various treaty bodies are sometimes unable to be met, despite the fact that such requests have been kept at an artificially low level in recognition of the impossibility of greater assistance being provided from existing resources" (A/47/628, para. 50).

198. In essence, the chairpersons comments are little more than a distillation of the statements made on a regular basis by each of the committees to the effect that the servicing each receives is inadequate and an impediment to more effective functioning. For present purposes it must suffice to note that the Human Rights Committee, which has always received the highest level of service (not only in terms of the number of staff allocated to it, but also of functions performed for it) of any of the treaty bodies, observed in its 1992 report that "a substantial increase" was required "in the specialized staff assigned to service the Committee both in relation to the monitoring of States' reports and the Optional Protocol". 61/ The level of assistance currently provided to most of the other bodies, includes little other than the routine compilation and sometimes perfunctory analysis of a limited, and entirely inadequate, range of materials. This situation is in direct contrast with the now commonly held view that "the composition of lists of issues and the compilation of other background documentation by a competent and adequately staffed secretariat [is] essential if the committees are to function optimally". 62//

199. Although comparisons can be used only with great caution (given the different mandates and structures involved), the same report notes that the ILO Committee of Experts on the Application of Conventions and Recommendations, which monitors compliance with ILO Conventions, is assisted by a secretariat with a staff of 20-25 legally trained persons. Similarly, the European Commission and the European Court of Human Rights have 32 and 10 lawyers at their disposal respectively. 63/ By comparison, the International Instruments Section of the Centre for Human Rights consists of only about eight staff members to deal with all of the reporting functions under the six principal human rights treaties.

200. The fourth meeting of chairpersons recommended that "a thorough study be undertaken, preferably by an independent

expert, of the full range of measures that would be required at the secretariat level if adequate servicing is to be provided" (A/47/628, para. 50). While such a study is well beyond the scope of the present report, a number of propositions may be identified as starting points. The first is that progress has been unduly slow in relation to the essential task of developing a computerized database to underpin the work of the treaty bodies. Very little progress has been made on plans endorsed by the Commission on Human Rights over three years ago (E/CN.4/1990/39). A principal reason for this problem is the absence of an expert on the development and use of databases within the secretariat. As long as the Centre for Human Rights relies entirely upon either external assistance (including from other parts of the secretariat) or upon officials with a casual interest in, but no clear mandate in relation to, databases, little if any progress may be expected.

201. A second priority need, to which the chairpersons and various individual committees have been calling attention since 1988, is the establishment of a resource, or documentation, unit within the Centre for Human Rights. It is extremely gratifying that this issue is finally, as of 1993, beginning to receive the attention it so urgently demands. It is imperative that this new initiative be strongly supported by States and that funding be made available to develop an adequate database and a basic collection of reference materials, as well as to cover the salary of a skilled documentalist.

202. A third issue, which is a prerequisite to the much-needed restructuring described below, concerns the need to ascertain precisely what services each committee would wish to have performed for it by the secretariat. At present the Human Rights Committee, for example, receives the following specific services: preparation of analytical studies; preparation of draft lists of issues for country rapporteurs; preparationof varios notes (for example on the submission of reports, states of emergency, country reservations and reporting profile); research and other assistance in connection with the formulation of general comments; dispatch of previous reports and of other reports under various human rights instruments; solicitation of country-specific information from ILO and relevant NGOs; and dispatch of Committee's comments to States parties concerned. 64/ Other committees receive varying, but in any event significantly less, services of this kind. A realistic overview of the total demand for secretariat services cannot be obtained unless each committee is specific as to its own needs.

203. Fourthly, the Committee on the Elimination of Discrimination against Women should be serviced by the Centre for Human Rights so as to underscore its status as a human rights treaty body, to enable it to benefit from the services and facilities that will be developed for the other treaty bodies,

and to facilitate effective interaction between its members and those of the other human rights bodies. This proposal has been endorsed by the third and fourth meetings of chairpersons. At its twelfth session the Committee itself advocated that it be serviced by both the Centre for Human Rights and the Division for the Advancement of Women (E/CN.6/1993/CRP.2, Annex I, para. 6 (c)). The latter part of the proposal would seem unnecessary if another important need were to be addressed. We turn now to that issue.

204. The fifth issue concerns the need for the development of specialist expertise within the secretariat. The current arrangements reflect an approach which was developed, and may well have been appropriate, at a time when the role of the secretariat of the then Human Rights Division was conceived of in terms of a glorified post office and conference organizer. There was neither the need, nor the political support, nor the resources, for the development of specialist expertise in particular fields. Today, at least in the case of some of the treaty bodies, this approach is no longer tenable. As has been noted elsewhere in relation to economic, social and cultural rights:

> The possibility of developing an effective programme for the promotion of economic, social and cultural rights in the context of United Nations activities is deeply undermined by the absence of a single official with any particular expertise in these rights. Special [thematic] Rapporteurs, country Rapporteurs, advisory services experts, members of treaty bodies, officials of other UN agencies, and non-governmental experts, have not even one single person within the Centre [for Human Rights] to whom they can turn for expert advice or assistance in relation to these rights. Similarly, the Centre has no meaningful collection of materials, books or documents relating to these issues". 65/

205. The situation is similar, although not identical, in relation to the rights of the child, political rights, women's rights, racism, and torture. Thus, at its third session, the Committee on the Rights of the Child called for the establishment of a specialist unit within the secretariat to deal with the broad range of children's rights issues. While it cannot be pretended that the development of appropriate arrangements designed to provide such substantive expertise to the treaty bodies will be an easy matter in bureaucratic terms, it is clear that a restructuring of the existing arrangements within the secretariat is an essential starting point. The present system of separate servicing for each and every committee ensures that no economies of scale are derived, that many functions are replicated several times over, that cross-fertilization is obstructed and that opportunities for the performance of substantive, as opposed to bureaucratic tasks, is effectively

eliminated.

206. The sixth, and final issue, in this regard concerns the need for more staff and financial resources to be devoted to the servicing of the treaty bodies. This is an issue which goes far beyond the scope of the present analysis. Suffice it to say that the present, grossly inadequate, level of available resources, virtually condemns the treaty bodies to function at a level of efficiency and effectiveness that is far below what could readily be achieved if less short-sighted policies were adopted in this regard by the Member States of the Organization as a whole. Ironically, it is often the Member States themselves who pay the penalty of the resulting inefficiency.

V. FUNCTIONING OF TREATY BODIES: SUBSTANTIVE ISSUES

A. Towards more effective monitoring of compliance

207. It has been correctly observed in a speech to the General Assembly that "setting standards cannot protect human rights if the standards laid down are then blatantly disregarded ... Ratification is not enough. Implementation is the essential task before us" (A/41/PV.54, p. 11). In that regard, as noted above, action at the national level is clearly of pre-eminent importance. At the same time, however, the various treaty bodies also have a vital role to play in giving substance to the concept of international accountability, the importance of which has been recognized on many occasions by the General Assembly. The key to ensuring such accountability is the development and application of effective procedures for monitoring the extent of States parties' compliance with their treaty obligations.

208. In the first version of this study a variety of issues was raised in this regard (A/44/668, Annex, paras. 112-122). Although some of those matters, such as the adoption of measures to facilitate effective and appropriate use by the treaty bodies of statistical indicators, or the effective use of outside expertise, have drawn only a limited response, they will not be repeated in this updated version. Rather, the focus will be on three issues of overriding importance in terms of ensuring that the treaty bodies have access to adequate sources of information, without which their work cannot possibly be effective. Those three issues concern the role of intergovernmental agencies, the role of non-governmental organizations and the need for country files.

1. The role of intergovernmental agencies

209. The history of the relationship between the United Nations

and its specialized agencies is, perhaps inevitably, much more complex and convoluted than is generally acknowledged.66/ Different priorities, different political majorities, different assumptions, jurisdictional jealousies and empire-building, structural deficiencies, a desire for independence or autonomy, and personalities have all played a part. In the very early years of the evolution of the treaty body system some of these factors probably contributed to arrangements which resulted in the specialized agencies being accorded, at best, a peripheral role in relation to the work of most of the committees. The issue was also very significantly complicated by the implications of the Cold War.

210. In recent years, most of the reasons for avoiding close cooperation between the treaty bodies and the specialized agencies have disappeared. The current state of play is thus best reflected in the most recent of the treaties under consideration. Thus, the Convention on the Rights of the Child provides that the relevant treaty body may invite specialized agencies, UNICEF and other competent bodies to provide expert advice and reports to it as appropriate. In the same spirit, the Commission on Human Rights has noted the importance of "enhancing coordination and information flow between the treaty bodies and with relevant United Nations bodies, including the specialized agencies" (resolution 1993/16, para. 8).

211. Ironically, this new spirit of cooperation has yielded rather little, except in relation to the Committee on the Rights of the Child. While there may be a number of reasons for this phenomenon, one in particular warrants consideration in the present context. It concerns the dramatic contrast between the pre-existing situation and the current one. In terms of the former, United Nations bodies and agencies, including the specialized agencies, were (with a limited number of obvious exceptions, such as the ILO) for many years reticent about any effective involvement in human rights matters within the United Nations. It was assumed that such matters would involve them in a part of the political arena in which they did not belong, or did not wish to be involved. Whatever the merits or otherwise of that position in the past, it is now widely recognized that human rights concerns are appropriately reflected in all of the Organization's activities, and that no areas can simply be cordoned off and deemed to be "human rights-free zones".

212. This evolution in thinking, however, has led to what might be described as an avalanche of requests directed to the various agencies for contributions to human rights activities of one kind or another. While in some narrowly-defined areas these requests have met with a constructive response, for the most part the response is either non-existent or formalistic in the extreme. It is thus not uncommon for inter-agency liaison officials to attend relevant United Nations meetings, put formal statements of

the most general kind on the record, and depart with a sense of having accomplished their missions. But such exercises actually contribute little, if anything, to better coordination or to an exchange of expertise or useful information.

213. It is, however, too simple to place all of the blame for this state of affairs upon the agencies. They are, in fact, receiving a mass of undifferentiated requests from United Nations human rights mechanisms of all varieties, including each of the treaty bodies 67/ and, while disappointing, it is hardly surprising that their response is often formalistic or none at all.

214. None of the foregoing analysis, should be interpreted, however, as in any way underestimating the potentially immense benefits that could flow to the treaty bodies from effective, coordinated, collaboration with the relevant agencies. The point has been perfectly illustrated in the following plea by the Executive Director of UNICEF about the need to get "the entire UN system on board" in relation to the work of the Committee on the Rights of the Child:

> If, for example, the ILO provided data about child labour and hazardous working conditions... if UNDP reported on the impact on children of development programmes around the world... if UNFPA supplied critical data about population trends and family planning in the context of children's well-being... if UNESCO provided data on basic education... if UNEP and the Commission on Sustainable Development helped the Committee explore the linkages between the environmental crisis and children in the development process... if the Department for Disarmament Affairs would show the effects of bloated military budgets on children... if the World Bank and the IMF provided "child impact statements" corresponding to their major loans... if the Department of Humanitarian Affairs and UNHCR reported on children caught up in wars and natural disasters... in short, if a more policy-coherent and operationally-coordinated United Nations system worked more closely with the Committee on the Rights of the Child in order to better support the efforts of governments, there's no doubt that we would see a real acceleration of progress. 68/

215. The need for "getting the agencies on board" applies equally to some of the other treaty bodies. It is, for example, in some ways almost ludicrous that three of the different committees whose mandate includes careful monitoring of a significant range of economic and social rights (the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women) have virtually no access whatsoever to the voluminous, highly detailed and directly relevant expert analyses of issues prepared on a regular basis by

a range of United Nations agencies. Instead, such documentation is completely unavailable to the committees in their deliberations. In their place, reports from non-governmental organizations or the press must suffice and observers wonder why the level of analysis, as well as the resulting impact, is often so limited.

216. In part, the reluctance of most intergovernmental agencies to cooperate with the treaty bodies may be due to nothing more subtle than traditional inter-agency rivalry. But it is unacceptable to dismiss the matter on that basis. Ignorance of the role and methods of work of the committees is almost certainly another factor. In addition, there is probably a perception on the part of the agencies that the treaty bodies are ineffectual and that efforts made to contribute to their work would not be repaid in results. Such a perception can best be dispelled by the committees themselves.

217. The issue of cooperation with intergovernmental agencies urgently needs to be addressed in an open and forthright manner. It is therefore suggested that consideration be given by the treaty bodies to examining carefully the type of cooperation which they would most value from the agencies and for these requests to be discussed with agency representatives. This needs to take place not only in the context of the meeting of chairpersons, which would allow the issue to be seen in some overall perspective, but also on a case by case basis. For that purpose each committee should designate an individual member to hold direct, substantive discussions with the relevant agencies to determine what, if any, cooperation is genuinely feasible. By the same token, however, this is an issue that also needs to be addressed in a framework that goes well beyond the specific and immediate concerns of the treaty bodies. Effective and targeted coordination in the human rights domain therefore needs to be put on the inter-agency agenda in a far more substantive way than has hitherto been the case.

2. Relations with non-governmental organizations

218. In the early days of the United Nations human rights programme it was sometimes argued that the only information that should be taken into account was that which emanated directly (and even officially) from the Government concerned. However, this proposition has been so consistently rejected in practice by each and every one of the human rights bodies that it is now rarely, if ever, suggested, let alone pursued. Nevertheless, in the first version of this study the treaty bodies were taken to task for the reticence or timidity that, it was suggested, had sometimes characterized their approach to the sources of information to which reference could be made. It was noted that:

> "[s]uch an approach would seem to be entirely out of step with the evolution of international practice generally and to result in an unnecessarily self-denying policy, which deprives the treaty body of information that is indispensable to its efforts to obtain a balanced and comprehensive picture of situation prevailing in the territory of any given State party. As a matter of principle, efforts by the treaty bodies to undertake effective monitoring can thus be facilitated by the adoption of procedures that help to provide each body with access to diverse but none the less well-informed sources of information" (E/44/668, para. 114).

219. Since that passage was written, the treaty bodies have risen to the challenge in many respects and are now making effective use of a variety of information sources (although, the possibilities in this respect remain artificially constrained by the inadequate secretariat servicing available). The one area which remains to be addressed systematically by virtually all of the treaty bodies is their relationship with nongovernmental organizations.

220. In recent years the role of non-governmental organizations within the international community, both in the human rights field and elsewhere, has evolved very significantly. There are various reasons for this phenomenon. They include the growth in membership of such organizations, and the fact that they have become more professional, better organized, more closely linked into networks that bring national and international actors together, and more adept at maximizing the opportunities offered by international conferences and agencies. The communications revolution has made it extremely difficult for governments to prevent information from being disseminated beyond national borders or to content themselves with issuing blanket denials of allegations. The end of the Cold War has removed much of the tension that surrounded the relations between particular governments and specific non-governmental organizations.

221. Moreover, the triumph of democratic systems of government in many countries has brought increased recognition of the importance of freedom of association and has demonstrated that non-governmental organizations can be important partners with governments in many endeavours. Finally, the inherently transnational dimension of many issues has been increasingly recognized and along with that recognition has come a realization that non-governmental organizations have strengths and potentials which cannot readily be matched by governments, whether acting alone or together with others.

222. These developments have given rise to a vastly more open attitude to the role of non-governmental organizations in many international forums. This is perhaps best illustrated by the case of the 1992 United Nations Conference on Environment and

Development. As the Secretary-General has noted, "non-governmental organizations contributed greatly to the success of the Conference" (A/47/598, para. 31). As a result, it was agreed in Agenda 21 that:

> The United Nations system ... should, in consultation with non-governmental organizations, take measures to:
>
> (a) Design open and effective means to achieve the participation of non-governmental organizations ... in the process established to review and evaluate the implementation of Agenda 21 at all levels ...'
>
> (b) take into account the findings ... of non-governmental organizations in relevant reports of the Secretary-General ... (A/CONF.151/26 (Vol. III), Chap. 38, para. 43).

223. This approach is also reflected in an increasing number of resolutions of the Commission on Human Rights which recognize the key role of non-governmental organizations in a wide range of contexts. In the case of the treaty bodies, however, there remains significant uncertainty not only on the part of the bodies themselves but also of commentators as to the appropriate, or most desirable, role that should formally be accorded to those organizations. Thus for example, while one recent report noted that "caution has been expressed about inviting just any group to send in their reports or to approach the [Human Rights] Committee", 69/ another urged that "[p]rocedures should be developed and additional doors opened for non-governmental ... organizations to channel information" to the treaty bodies. 70/

224. At present, the approach to non-governmental organizations varies significantly from one treaty body to another. It is unnecessary to review those arrangements in detail here. Suffice it to note that: (i) the flow of information from such groups to the members of all treaty bodies is now largely open; (ii) formal procedures have generally not been adapted to reflect the *de facto* situation; (iii) the arrangements that do exist are not transparent, although this does not inhibit the use by committee members of any information they might receive; (iv) State party representatives are probably not aware, in the majority of instances, of precisely what has been said, or by whom, about their Government's compliance in information made available to the committees; (v) small, or grass-roots, non-governmental organizations, and especially those from developing countries, are inevitably badly placed under the existing rather informal arrangements in terms of their access to the treaty bodies; (vi) the opportunities that do exist for groups other than the large ones to channel information to the treaty bodies are not well known, and as a result, poorly used.

225. All of this adds up to the need for each treaty body to seek to develop a more open, rational, transparent and balanced approach to dealing with information from non-governmental organizations. While the present study is in no position to suggest any specific model in this regard, it is appropriate to canvas some of the options that might be available.

226. In the first place, the importance of receiving reliable information from non-governmental organizations might be officially confirmed by each committee. This would remove much of the uncertainty and ambiguity which still exists and would ensure that the message reaches beyond those organizations large or wealthy enough to be active at the international level in New York, Geneva or Vienna. Such confirmation could be contained in a general comment, a recommendation, or some other "official" committee statement.

227. The principal issue which needs to be addressed in this regard is whether the information sought should be restricted to information from non-governmental organizations in consultative status with the Economic and Social Council. There is, in many respects, no formal reason why the treaty bodies should feel themselves bound by rules devised for an entirely different purpose. Indeed, the Economic and Social Council approach is intrinsically inappropriate from the treaty bodies perspective, since organizations which are active only within one country are effectively precluded from being accorded status under the rules contained in Economic and Social Council resolution 1296 (XLIV). The principal argument in favour of the consultative status approach is that it should enhance the likelihood that reliable information will be received because organizations which do not abide by the rules can be disciplined in some way. But this does not reflect adequately the realities confronting the treaty bodies. Groups operating at the national level only (and thus not holding consultative status) are in fact likely to be the best placed, and potentially the most effective and constructive partners of all, in shedding light upon the human rights situation within a given State party's territory.

228. The principal remaining practical reason for priveleging organizations with consultative status is to deter a flood of information from an excessive number of sources. But the approach is not well tailored to achieve that objective. It must, in any event, be asked whether, at least at this stage, there is either an actual or potential problem in this regard. The experience of most committees to date (with the sole possible exception of the Human Rights Committee) is that there is currently all too little information coming from such sources, rather than too much.

229. The next rationale for imposing such a restriction

concerns the cost of reproducing documents submitted by such groups. This is not, however, even an issue for most committees at present. Of those that already provide for such submissions, the approach adopted by the Committee against Torture is adequate to deal with any potential problem in this regard. Rule 62 of that Committee's rules of procedure provides that "[t]he Committee shall determine the form and the manner in which such information, documentation and written statements may be made available to members of the Committee." 71/

230. One possible approach would therefore be to: (i) indicate that reliable information from all sources will be received by the secretariat and made available to the treaty bodies; and (ii) provide that a brief statement (perhaps four pages or less) from each group with consultative status will be reproduced in the committee's documentation (perhaps only in whichever working language it is received) and that the chairperson, rapporteur, or pre-sessional working group of the committee will scrutinize statements from groups not holding consultative status with a view to authorizing their reproduction. This would be seen solely as a safeguard against patently inappropriate information being processed.

231. The most difficult issue for the committees to decide is whether any opportunities should be provided at which they can listen to submissions by non-governmental organizations and probe or challenge the evidence submitted to them. According to one such proposal the treaty bodies should dedicate part of a meeting "to formal hearings in which national and international NGOs would be invited to present public testimony. These hearings should be held on each country just prior to the Committee's formal consideration of that country's report". 72/ Variations on this theme could easily be envisaged. Such participation could be limited, for example, to groups authorized for this purpose by the government concerned, or to groups not specifically vetoed by the government, or to groups with consultative status, or to groups chosen by the committee itself etc.

232. There would seem to be very good reasons to fear, however, that the essential nature of the constructive dialogue which characterizes the work of the treaty bodies could be irreparably harmed by such a procedure if it were to degenerate into a "slinging match" between a government and those critical of its policies. While this would not always be the case, it is difficult to see how it could be avoided in many situations. Moreover, such confrontations would seem more appropriate to the Charter-based organs, in which they already occur on a regular basis. It would thus not seem appropriate to go as far as to incorporate non-governmental organizations as full participants in the actual dialogue.

233. If it is accepted then that they should be excluded from the formal proceedings involving governments, the question that remains is whether there are other options in relation to oral presentations that might still deserve to be explored. The answer would seem to be in the affirmative for several reasons. They include the need to open up the system and make it more transparent from the perspective of governments as well as non-governmental organizations, the need to make a greater effort to accommodate groups from the national level, and, perhaps most importantly, the need to ensure that all points of view are available to the committees to enable them to reach well-founded and insightful conclusions.

234. The principal options then would seem to be: (i) providing an opportunity at the beginning of each committee session for groups to present any information of direct relevance; (ii) limiting such an opportunity to the committee's pre-sessional working group; or (iii) scheduling informal sessions, without summary records and with only essential interpretation, outside of the committee's regular meetings. The first of these options is the strongest but would still seem to entail the risk that inflammatory, as opposed to constructive, contributions might divert the focus of the entire dialogue between the committee and the State party. There are, in fact, both good and bad consequences flowing from the fact that, once such allegations are on the record, it would be essential for the government concerned to respond in detail.

235. The second option would seem attractive in some respects, but may be less necessary if it is assumed that all relevant written information will, in any event, be provided to the sessional working groups charged with responsibility for drawing up the list of specific questions to be posed to each government. The third option is appealing in a number of respects. If there were very few groups wanting to place their views before the committee, a single informal session could be held at the beginning of the committee's session. Thus, for example, the Monday afternoon of the first week could be set aside for that purpose. Alternatively, one hour meetings might be scheduled in relation to an individual country report, at either 9 a.m. or 2 p.m. the day before the country is scheduled to report. Such meetings could be open to all concerned groups and individuals and to all interested committee members. At the very least, the committee could ask one of its members to report back to it, perhaps informally, on the outcome of such a session.

236. In conclusion, it must be observed that these issues are as important as they are complex. They should no longer simply be ignored, whatever the outcome of each committee's discussions. In the meantime, the general arrangements for liaison between the committees and non-governmental organizations are in dire need of reform. At present, notification of the reports scheduled at

each session is inadequate and the possibilities for groups, particularly at the national level, to obtain the relevant documentation are very slight indeed. As long as this situation persists, urging by the treaty bodies that more groups at the national level should follow their deliberations will be largely in vain. Suggestions that the United Nations Information Centres be relied upon for this purpose may be appealing in theory (to those who do not know the *modus operandi* of most such Centres), but they are very misplaced in practice. Indeed, one would hardly expect such Centres to play the sort of role envisaged in this regard.

237. What is clearly needed is for the Centre for Human Rights to develop its own non-governmental liaison office which would be in a position to develop a carefully planned strategy for reaching out to the key groups whose inputs would greatly assist the work of the treaty bodies as well as other mechanisms. Virtually all United Nations agencies, such as UNDP, UNICEF, UNHCR etc. have such offices, but the United Nations Office in Geneva has only one person to do that job across the entire gamut of activities. Although that office has been extraordinarily effective it is inconceivable that it could, on its own, do an adequate job in relation to all of the non-governmental organization-related needs of the human rights programme.

B. Promoting normative consistency

238. In addressing the General Assembly on the occasion of the twentieth anniversary of the adoption of the International Covenants, the Secretary-General noted that "we must be constantly vigilant that nothing is done to detract from their provisions" (A/41/PV.54, p. 6). Yet the introductory part of the present study (paras. 9-30) provides a clear illustration of the extent to which factors such as the recent proliferation of standards (both binding and non-binding), the increasing range and depth of the activities of the policy-making organs and the expanding number of treaty bodies can combine in such a way as to render ever more difficult the maintenance of a reasonable degree of normative consistency. A recent manifestation of concern over this problem is reflected in the Economic and Social Council's appeal in paragraph 8 of its resolution 1987/4 to bodies dealing with similar questions of human rights to respect the Human Rights Committee's uniform standards.

239. Because of the uniqueness of each of the different treaty régimes, the quèst to achieve normative consistency is subject to certain clear limitations. It is generally accepted, however, that the interpretation accorded to a given norm by one United Nations human rights body should, as far as possible, be

consistent with that adopted by another body. In so far as complete consistency is neither possible nor appropriate for reasons inherent in the relevant treaty provisions. a principled explanation for the resulting differences should be available. But although these principles are unproblematic, at least in the abstract, the existence of a significant range of different treaty bodies, and the proposed creation of several new ones, inevitably gives rise to certain problems. They have recently been formulated in the following terms by a member of the Human Rights Committee:

> "Does the interpretation under the prior or later treaty prevail? Does interpretation given under a one topic treaty have greater authority than interpretation given of a specific right under a more general treaty? Is the integrity of each treaty to be protected by each body carefully not looking beyond its own jurisprudence in any given subject area? Is the authority and standing of any one interpreting body to be weighted against the authority and standing of any other interpreting body?" 73/

240. The problems that have already arisen in this domain 74/ can be expected to become even more frequent and troublesome as a phenomenon that has been called "permeability" becomes more widespread. 75/ Permeability refers to the process by which the norms contained in one instrument are used in connection with the interpretation of norms contained in another instrument. Thus, for example, economic rights contained in the International Covenant on Economic, Social and Cultural Rights might be taken into account by the Human Rights Committee, especially when deciding cases brought to it under the Optional Protocol to the International Covenant on Civil and Political Rights. This situation actually arose in several recent cases in which the Human Rights Committee held that article 26 of the latter Covenant, which provides for equal protection of the law, was applicable to social security legislation (an issue dealt with under article 9 of the other Covenant). 76/

241. In the longer term, it seems inevitable that instances of normative inconsistency will multiply and that significant problems will result. Among the possible worst-case consequences, mention may be made of the emergence of significant confusion as to the "correct" interpretation of a given right, the undermining of the credibility of one or more of the treaty bodies and eventually a threat to the integrity of the treaty system. While it is to be hoped that none of these scenarios will eventuate, the possibility exists that they might be sufficient to cause the international community to hesitate before creating new treaty bodies beyond those already in the pipeline. It is also an important reason to consider long-term measures towards the rationalization of the present system (see chap. VI below).

242. In the short term questions of credibility and integrity will also probably arise. In addition, the transparency of the overall system (i.e. the ease with which Governments and their citizens can comprehend both the normative and institutional dimensions of the system) may well be threatened. The principal short-term solutions are twofold. The first is the recognition of the problem and of its potential seriousness by both the treaty bodies and the policy-making organs. Unless the problem is clearly recognized its solution will not be found. The second solution is to develop procedures designed to ensure that as much relevant information as possible is brought to the attention of any United Nations human rights body in connection with its consideration of a specific issue. In particular, the secretariat should be mandated to draw the attention of the body in question (whether a treaty body or a policy-making organ) to any proposal it believes involves or might involve normative inconsistency. The decision-making responsibility, of course, rests with the body concerned but its deliberations should at least be based on full information, and efforts to avoid inconsistency should he facilitated as far as possible.

243. The principal practical difficulty with this solution is the burden it imposes upon an already under-staffed secretariat. While that problem is beyond the confines of the present study, two suggestions may be offered. The first is that consideration be given to re-conceptualizing or supplementing the publication United Nations Action in the Field of Human Rights, 77// which has retained essentially the same format since it was first produced in preparation for the International Conference on Human Rights held at Tehran in 1968. It currently constitutes an extremely valuable record of institutional developments and provides, in effect, an indispensable institutional memory. Nevertheless, it does not provide any sort of integrated or synthetic overview of the approaches or interpretation adopted by the various treaty bodies with respect to specific norms. For example, if information were to be sought as to the normative content of the prohibition of discrimination on the grounds of status or social origin, the publication would offer little, if any, direct assistance. An alternative course of action would be to begin work on an entirely new publication (perhaps in loose-leaf format), which would seek to provide the sort of information that States parties, the human rights organs and expert members of the treaty bodies could consult as required.

244. Another suggestion is that consideration be given by the secretariat to trying to build up a greater degree of specialist expertise on the basis of different topics or subject areas rather than allocating all human resources on a functional or institutional basis. As long as the latter approach is applied almost exclusively there is little likelihood of any officials developing a detailed knowledge of all of the activities relevant to specific subjects whether undertaken by a treaty body, a

policy-making organ, a specialized or other agency or a regional human rights organization.

C. Relationships with the principal regional human rights mechanisms

245. While the norms being applied by each of the three principal regional mechanisms (the African, the European and the Inter-American) are, as noted earlier,78/ by no means identical, either to one another or to the relevant United Nations norms, there is, in addition to a very great number of comparably formulated standards, an underlying presumption that the various organs are all engaged in a common endeavour to promote understanding of, and respect for, internationally recognized human rights principles. This is not to suggest an absolute identity of standards; indeed among the rationales sometimes cited for a regional system are: (i) the desire to have more demanding standards; or (ii) the quest for standards which are formulated in such a way as to more precisely reflect the specific cultural and other traditions within the region concerned than is possible in the case of universal standards. Nevertheless, it is generally accepted that "regional instruments should complement the universally accepted human rights standards" and "that certain inconsistencies between provisions of international instruments and those of regional instruments might raise difficulties with regard to their implementation".79/

246. The most effective way of promoting an appropriate complementarity of approach among the organs at the different levels is to ensure the development of effective channels of communication, both in terms of the individuals concerned and of the jurisprudence. This is, however, very far indeed from the existing situation, despite the number of occasions on which the General Assembly and the Commission on Human Rights have affirmed the importance of greater interaction. Thus, to take but one such example, the General Assembly reaffirmed in its resolution 47/125 that "regional arrangements ... may make a major contribution to the effective enjoyment of human rights and fundamental freedoms and that the exchange of information and experience in this field ... may be improved" (8th preambular para.).

247. At present, however, there is no regular (or even occasional) forum in which the members of the United Nations treaty bodies can become acquainted with their regional counterparts or can exchange views on issues of common concern.80/ Moreover, and ultimately much more problematic, there is no way of ensuring that doctrinal approaches being adopted at either the United Nations or regional levels take account of directly relevant approaches already adopted at the

other level.

248. This is not to imply that the jurisprudence of, for example, the Inter-American Commission or Court of Human Rights would be in any way determinative of the approach to be adopted in relation to a particular matter by a United Nations treaty body such as the Human Rights Committee. Nevertheless, based on the premise that there is a shared commitment to the building of a jurisprudence of international human rights norms which is as generally coherent and consistent as possible, every effort should be made to ensure that the jurisprudence of each of the treaty systems is not only readily available to each of the bodies, but is specifically taken into account whenever it is relevant. Even if such a process leads on occasion, as it almost inevitably often will, and probably sometimes should, to the rejection, or significant modification, of another body's approach, such an explicit acknowledgement of what is being done would help to contribute to the development of a better, and more sophisticated, international human rights jurisprudence.

249. It may be objected that the treaty bodies actually spend rather little of their time exploring what might be termed jurisprudential issues in the sense of developing a better understanding of the legal and policy implications of a particular norm in relation to a given fact situation. Indeed the most explicit context in which this process takes place, that of considering communications submitted under one of the optional procedures, is confined largely to the Human Rights Committee and, on a significantly smaller scale, to the procedures applied under the Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, such an objection risks under-estimating the extent to which use of these procedures seems likely to grow in the years ahead, as well neglecting the fact that proposals have already been made for the adoption of new communications procedures in relation to both the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Economic, Social and Cultural Rights.81/

250. Moreover, while jurisprudential issues do not present themselves quite as clearly or explicitly in connection with the other principal concerns of the treaty bodies they are still in fact of major relevance. Thus, for example, as the examination of States reports becomes more sophisticated and nuanced there will be a greater need for committee members to spell out in some detail the legal analysis on the basis of which they are suggesting that a given law or practice is incompatible with, or inadequate to satisfy, the obligations reflected in a particular treaty norm. Similarly, as the importance attributed to the drafting of general comments grows, and as they become more influential in legal, academic, governmental and non-governmental

contexts, the treaty bodies will need to re-double their efforts to ensure that the normative interpretations that they are helping to shape take into account the jurisprudence already existing at the regional level. Failure to do so can only contribute to confusion and ultimately to undermining the authority of the jurisprudence generated at both the universal and regional levels.

251. The need which already exists in this regard is by no means only a one way street. It seems highly likely, to take but one of several possible examples, that a careful search of the jurisprudence generated by the European system would reveal extremely few references to, for example, the final views or general comments of the Human Rights Committee. The converse is certainly also true. Over the longer term, one potential result of this lack of interaction is the development of very significantly different, and perhaps ultimately incompatible, interpretations and assumptions in relation to norms that are virtually identical in their basic formulations. While many such differences might reasonably be explained by reference to concepts such as the margin of appreciation applied by the different organs in an effort to reflect appropriate specificities, there is also a strong risk that an unarticulated or unacknowledged element of cultural relativism will enter into normative interpretations unless an endeavour is made to justify differences of approach and interpretation when they are deemed necessary.

252. In considering specific policy recommendations that follow from this analysis four approaches should be explored. The first is to draft a programme of action designed solely to ensure that the United Nations treaty bodies and the relevant regional bodies are kept reasonably well informed of one another's activities. The second is for the Secretary-General to devise appropriate means by which to respond to the request directed to him by the General Assembly "to continue to strengthen exchanges between the United Nations and regional intergovernmental organizations dealing with human rights" (resolution 47/125, para. 6). It must be acknowledged, however, that most of the exchanges that have taken place so far have resulted in very little genuine interaction between the two levels. Rather they have been predominantly concerned with the holding of meetings of one kind or another on a regional or sub-regional basis, in which the relevant regional bodies have, almost coincidentally, been marginally involved (such as through the provision of premises or the coordination of some of the administrative arrangements).

253. A third possible approach is to explore the possibility of regular, even if rather infrequent, meetings between representatives of the United Nations treaty bodies and their regional counterparts. Such meetings should involve (but by no means be limited to) the provision of detailed briefings on the

work of the host organs. Thus, for example, if a meeting were to be held in Banjul, at the headquarters of the African Commission, the representatives of the United Nations treaty bodies would gain an invaluable opportunity to learn at first hand what is being done by that Commission, what the principal problems are that have been encountered and what the opportunities might be for joint iniatives in the future.

254. The fourth possible approach is both the most important and the most challenging. It will become increasingly urgent for the members of the different United Nations and regional bodies to have full and reasonably easy access to the jurisprudence generated by the other bodies. Ideally, this will be achieved in part through the increasing sophistication of data bases being developed in some areas, although it must be noted that the United Nations Centre for Human Rights has barely even begun to implement the rather basic programme of activities identified for it three and a half years ago (as of June 1993) by a Task Force on Computerization appointed by the Commission on Human Rights (E/CN.4/1990/39). It is clear, however, that the availability, exchange and accessibility of such information will not be achieved either accidentally or inevitably over time. Rather, what is required, is the appointment of an expert group comprised of appropriate experts from the regional and United Nations systems (including, in this case, the ILO, in view of the considerable progress it has already made in this regard), with a mandate to develop a range of specific recommendations for future action.

FOOTNOTES

1/ Alexei Glukhov, "A Two-Way Street", International Affairs, July 1988, 31 at 34.

2/ Rosalyn Higgins, "The United Nations: Still a Force for Peace", 52 Modern Law Review 1 at 20 (1989). The title of the article was subsequently corrected to read "The United Nations: Some Questions of Integrity".

3/ Making the Reporting Procedure under the International Covenant on Civil and Political Rights More Effective (Oslo, Norwegian Institute of Human Rights, Publication No. 8, 1991), p. 4.

4/ Ibid.

5/ Dominic McGoldrick, *The Human Rights Committee: Its Role in the Development of the International Covenant on Civil and Political Rights* (Oxford, Clarendon Press, 1991), p. 499.

6/ See, for example, Manfred Nowak, "The Activities of the UN Human Rights Committee: Developments from 1 August 1989 through 31 July 1992", 14 *Human Rights Law Journal* 9-19 (1993).

7/ Anne Bayefsky, "Making Human Rights Treaties Work", unpublished manuscript, University of Ottawa, 1993, p. 37.

8/ Thus the fourth meeting of chairpersons noted: (i) that "it is imperative that individual States parties act as rapidly as possible to ratify the [relevant] amendments to the two treaties; and (ii) that "in the period prior to the entry into force of those amendments there will continue to be a critical need to assure adequate funding to the two committees concerned to enable them to fulfil adequately their supervisory functions". A/47/628, paras. 47-48.

9/ This issue was discussed at length in the first version of this study (A/44/668, paras. 54-99) but will not be further examined in the present report.

10/ See, in this regard, the San José Declaration adopted by the Regional Meeting for Latin America and the Caribbean of the World Conference on Human Rights, which stated that "an evaluation of the United Nations human rights system is needed ...", A.CONF.157/PC/58, para. 8.

11/ *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 27* (A/8027).

12/ The statistics used in this section actually relate to 1979 rather than 1980. They will be revised to reflect the 1980 statistics in the final version of this updated study.

13/ *Ibid.*, *Thirty-fourth Session, Supplement No. 18* (A/34/18).

14/ *Ibid.*, *Supplement No. 40* (A/34/40).

15/ Status of International Instruments: Chart of Ratifications as at 1 January 1993, ST/HR/4/Rev.7.

16/ This figure is actually significantly lower than it will be in the years ahead because the Committee on the Rights of the Child had not considered any States reports by the end of 1992 and the Committee on the Elimination of Racial Discrimination was able to meet for only two weeks instead of the scheduled six weeks.

17/ All of the general comments and general recommendations have recently been issued in a single compilation, contained in HRI/GEN/1 (1992).

18/ Ibid., Forty-third Session, Supplement No. 40 (A/43/40), para. 642.

19/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40 (A/47/40), para. 615.

20/ Ibid., Annex IX.

21/ United Nations publication, Sales No. E.88.XIV.1.

22/ Official Records of the General Assembly, Forty-second Session, Supplement No. 40 (A/42/40), para. 28.

23/ Making the Reporting Procedure under the International Covenant on Civil and Political Rights More Effective, op cit., p. 25.

24/ Ibid., Forty-fourth Session, Supplement No. 38 (A/44/38), Para. 8.

25/ It is significant in this context that the Commission on Human Rights has welcomed "the importance that the Working Group [on Arbitrary Detention] attaches to coordination with other mechanisms of the Commission as well with treaty-monitoring bodies". Resolution 1993/36, para. 7.

26/ Commission on Human Rights resolution 1993/11, Annex, Part II.

27/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 18 (A/47/18), Annex VII.

28/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 1 (A/47/1), para. 101.

29/ "Conclusions by the General Rapporteur, Mary Robinson, President of Ireland", Human Rights at the Dawn of the 21st Century, Council of Europe doc. CE/CMDH (93) 16 of 30 January 1993, p. 3.

30/ See ST/HR/4/Rev.7. States which have ratified only the Covenant on Civil and Political Rights are: Haiti; and the United States of America. States which have ratified only the Covenant on Economic, Social and Cultural Rights are: Greece; Guinea Bissau; Honduras; Solomon Islands; and Uganda.

31/ This data is based on a comparison of the Chart of Ratifications, as at 1 January 1993, contained in ST/HR/4/Rev.7 and statistics provided in UNDP, Human Development Report 1992 (New York, Oxford University Press, 1992). See Table 22 - Demographic Change - listing the estimated population for 1990; and Table 2 - Profile of Human Development - listing GNP per capita for 1989.

32/ "From Madness to Hope", Address by Mr James P. Grant at the Consultation on the Role of the United Nations and NGOs in the Implementation of the Convention on the Rights of the Child, UNICEF House, 24 March 1993, p. 5.

33/ John Humphrey, "The International Law of Human Rights in the Middle Twentieth Century", in M. Bos (ed.), The Present State of International Law and other Essays (Deventer, Kluwer, 1973) 75 at 91.

34/ Official Records of the General Assembly, Forty-third Session, Supplement No. 40 (A/43/40), para. 486.

35/ Official Records of the Economic and Social Council, 1989, Supplement No. 4 (E/1989/22), annex III.

36/ Report of the Regional Meeting for Africa of the World Conference on Human Rights, Tunis, 2-6 November 1992, A/CONF.157/PC/57, resolution AFRM/2, para. 4 (d); and the "Principles relating to the Status of Commissions and Their Advisory Role", adopted by the International Workshop on National Institutions for the Promotion and Protection of Human Rights, Paris, 7-9 October 1991, reprinted in A/CONF.157/PC/42, para. 82 at para. 3 (d).

37/ Making the Reporting Procedure under the International Covenant on Civil and Political Rights More Effective, op cit., p. 35.

38/ These figures were given in document HR1/MC/1988/L.2, prepared for the second meeting of the persons chairing the human rights treaty bodies.

39/ Information provided by the Centre for Human Rights, as at 15 March 1993. It may be noted that, in relation to the Covenant on Economic, Social and Cultural Rights the real number of overdue reports is significantly fewer than it would have been before the Committee amended its periodicity from 2 or 3 years (depending on the type of report) to 5 years.

40/ This chart is taken from Bayefsky, op cit., p. 16.

41/ Reprinted in 31 International Legal Materials (1992), p. 851, art. 8. 2 (c).

42/ Report of Nordic Seminar on Human Rights (Laugarvatn, Iceland, 9-10 June 1991), A/CONF.157/PC/7, para. 56.

43/ See, for example, Benedetto Conforti, "Prolifération organique, prolifération normative et crise des Nations Unies: réflexions d'un juriste", in D. Bardonnet (ed.), The Adaptation of Structures and Methods at the United Nations, (Dordrecht, Martinus Nijhoff for the Hague Academy of International Law, 1986), p. 153.

44/ This category does not, however, include requests based on the fact that a State has ratified the United Nations Charter, since that basis might be used to justify a far broader range of requests.

45/ Although it should be noted that the European system is not unitary per se since it also includes the Committee of Independent Experts under the European Social Charter and the European Committee for the Prevention of Torture.

46/ Thus, as at 31 July 1992, 13 of a total of 112 States parties to the Covenant on Civil and Political Rights had submitted core documents. Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40 (A/47/40), Annex V.F.

47/ Jean-Bernard Marie, "International Instruments Relating to Human Rights: Classification and Status of Ratifications as of 1 January 1992", 13 Human Rights Law Journal (1992), p. 55 at 62.

48/ Rosalyn Higgins, op. cit., p. 9.

49/ See the summary of the presentation by Mr. Pocar in document CCPR/C/SR.859, para. 8.

50/ Official Records of the General Assembly, Forty-fourth Session, Supplement No. 38 (A/44/38), para. 392.

51/ Committee on Economic, Social and Cultural Rights, Report on the Fifth Session, Official Records of the Economic and Social Council, Supplement No. 3, (E/1991/23), Annex IV, part B. 1.

52/ It may be noted in this regard that the Human Rights Committee has expressed the view that "efforts towards harmonization and unification may also find an appropriate solution within a State party, particularly through the creation of a co-ordination mechanism" (Official Records of the General Assembly, Forty-third Session, Supplement No. 40 (A/43/40), para. 28 (4)).

53/ ILO, 52 Official Bulletin 181-216 (1969).

54/ See, for example, resolution AFRM/13 entitled "protection of the rights of women", adopted by the Regional Meeting for Africa of the World Conference on Human Rights, A/CONF.157/PC/57.

55/ Paragraph 1 (a) of Suggestion 4, adopted by the Committee on the Elimination of Discrimination against Women at its twelfth session, reproduced in E/CN.6/1993/CRP.2, Annex I.

56/ Philip Alston, "The Committee on Economic, Social and Cultural Rights", in P. Alston (ed.), *The United Nations and Human Rights: A Critical Appraisal* (Oxford, Clarendon Press, 1992), p. 497.

57/ *Official Records of the General Assembly, Forty-second Session, Supplement No. 18* (A/42/18), para. 60.

58/ Rosalyn Higgins, *op. cit.*, p. 19.

59/ Pursuant to General Assembly resolution 35/218.

60/ Henry G. Schermers, "Has the European Commission on Human Rights Got Bogged Down?", 9 *Human Rights Law Journal* p. 175 at p. 179 (1988).

61/ *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 40* (A/47/40), para. 22.

62/ Letter dated 29 September 1988 from the Minister for Foreign Affairs of the Netherlands addressed to the Secretary-General, enclosing an advisory report of the Netherlands Human Rights and Foreign Policy Advisory Committee on the functioning of the human rights conventions under United Nations auspices (A/C.3/43/5), p. 17.

63/ Schermers, *op. cit.*

64/ This list is taken directly from a document prepared by the secretariat at the request of the fourth meeting of chairpersons and circulated at that meeting.

65/ Philip Alston, "The Importance of the Inter-play Between Economic, Social and Cultural Rights and Civil and Political Rights", paper presented to the Interregional meeting organised by the Council of Europe in advance of the World Conference on Human Rights, Strasbourg, 28-30 January 1993, Council of Europe doc. CE/CMDH (93) 7, para. 33.

66/ But see K.T. Samson, "Human Rights Co-ordination within the UN System", in Alston (ed.), *op. cit.*, pp. 620-675.

67/ A not atypical example is to be found in a recent resolution on the work of the Sub-Commission's Working Group on Contemporary Forms of Slavery in which the Commission on Human Rights invited:

> "intergovernmental organizations, relevant organizations of the United Nations system, including the United Nations Children's Fund, the United Nations Development Programme, the United Nations University, the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the World Bank, the International Monetary Fund and the World Tourism Organization, as well as the International Criminal Police Organization and non-governmental organizations concerned, to continue to supply relevant information to the Working Group".

Commission on Human Rights resolution 1993/27, para. 5.

68/ Grant, *op. cit.*, p. 7.

69/ Making the Reporting Procedure under the International Covenant on Civil and Political Rights More Effective, *op. cit.*, p. 37.

70/ Nordic Seminar on Human Rights (Laugarvatn, Iceland, 9-10 June 1991), A/CONF.157/PC/7, para. 61.

71/ *Official Records of the General Assembly, Forty-third Session, Supplement No. 46* (A/43/46), annex III. See also, in the report of the Committee to the forty-fourth session (*Official Records of the General Assembly, Forty-fourth Session, Supplement No. 46* (A/44/46), annex IV), rule 76 (4) (pertaining to proceedings under article 20 of the Convention).

72/ Michael Posner, "The Establishment of the Right of Non-Governmental Human Rights Groups to Operate", paper presented to American Society of International Law's Project on an International Human Rights Agenda for the Post-Cold War World, Washington DC, March 1993, p. 15.

73/ Higgins, *op. cit*., p. 8.

74/ *Ibid*., pp. 8-11.

75/ Craig Scott, "The Interdependence and Permeability of Human Rights Norms: Towards a Partial Fusion of the International Covenants on Human Rights", 27 *Osgoode Hall Law Journal* 769-878 (1989).

76/ *Official Records of the General Assembly, Forty-second Session, Supplement No. 40* (A/42/40), annex VIII, views B, C and D.

77/ United Nations publication, Sales No. E.88.XIV.2.

78/ See the discussion above in Chap. II.

79/ General Assembly resolution 47/125, ninth preambular para.

80/ The exceptions in this regard have generally been fortuitous rather than a result of a a particular policy decision. Thus, for example, the Committee against Torture has been briefed on the activities of its regional counterpart the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. But the briefing was carried out by one of its own members who is also a member of the European Committee. See Official Records of the General Assembly, Forty-seventh Session, Supplement No.44 (A/47/44), paras. 13-14.

81/ CEDAW Committee Report; Official Records of the Economic and Social Council, 1993, Supplement No. 3 (E/1993/22), Annex IV. Although, it should be noted that the Committee on the Elimination of Discrimination against Women rejected one specific proposal for the adoption of an optional protocol in response to the problem of violence against women. See Official Records of the General Assembly, Forty-seventh Session, Supplement No.38 (A/47/38), para. 464.